THE MICHIGAN PENAL CODE
Act 328 of 1931

AN ACT to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1991, Act 56, Eff. Jan. 1, 1992.

Constitutionality: Michigan's anti-stalking law is not an unconstitutionally vague threat to freedom of speech, Staley v. Jones, USCOA docket No. 00-1809 (2002).

The People of the State of Michigan enact:

750.1 Michigan penal code; short title.

Sec. 1. Short title—This act shall be known and may be cited as "The Michigan Penal Code".

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.1.

Compiler's note: The catchlines following the act section numbers were incorporated as part of the act as enacted.

750.2 Rule of construction.

Sec. 2. Rule of construction—The rule that a penal statute is to be strictly construed shall not apply to this act or any of the provisions thereof. All provisions of this act shall be construed according to the fair import of their terms, to promote justice and to effect the objects of the law.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.2.

750.3 Civil rights or remedies not affected.

Sec. 3. Civil rights or remedies not affected—The provisions of this act are not to be deemed to affect any civil rights or remedies existing at the time when this act takes effect, by virtue of the common law or of any provision of statute.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.3.

750.4 Civil remedies preserved.

Sec. 4. Civil remedies preserved—The omission to specify or affirm in this act any liability to damages, penalty, forfeiture or other remedy, imposed by law, and allowed to be recovered, or enforced in any civil action or proceeding, for any act or omission declared punishable herein does not affect any right to recover or enforce the same.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.4.

CHAPTER I
DEFINITIONS

750.5 "Crime" defined.

Sec. 5. "Crime" means an act or omission forbidden by law which is not designated as a civil infraction, and which is punishable upon conviction by any 1 or more of the following:

(a) Imprisonment.

(b) Fine not designated a civil fine.

(c) Removal from office.

(d) Disqualification to hold an office of trust, honor, or profit under the state.

(e) Other penal discipline.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.5;—Am. 1978, Act 513, Eff. Mar. 30, 1979.

750.6 Division of crime.

Sec. 6. Division of crime—A crime is:

1. A felony; or

2. A misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.6.

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750.7 Felony; definition.

Sec. 7. Felony—The term "felony" when used in this act, shall be construed to mean an offense for which the offender, on conviction may be punished by death, or by imprisonment in state prison.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.7.

750.8 Misdemeanor; definition.

Sec. 8. Misdemeanor—When any act or omission, not a felony, is punishable according to law, by a fine, penalty or forfeiture, and imprisonment, or by such fine, penalty or forfeiture, or imprisonment, in the discretion of the court, such act or omission shall be deemed a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.8.

Former law: See section 11 of Ch. XXXV of Act 314 of 1915, being CL 1915, § 13403; CL 1929, § 15150.

750.9 Misdemeanor; definition.

Sec. 9. Misdemeanor—When the performance of any act is prohibited by this or any other statute, and no penalty for the violation of such statute is imposed, either in the same section containing such prohibition, or in any other section or statute, the doing of such act shall be deemed a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.9.

Former law: See section 26 of Ch. 156 of R.S. 1846, being CL 1857, § 5845; CL 1871, § 7678; How., § 9260; CL 1897, § 11330; CL 1915, § 14997; and CL 1929, § 16588.

750.10 Miscellaneous; definition.

Sec. 10. Miscellaneous—In this act:

The singular number includes the plural and the plural includes the singular.

The masculine gender includes the feminine and neuter genders.

The words "person", "accused", and similar words include, unless a contrary intention appears, public and private corporations, copartnerships, and unincorporated or voluntary associations.

The term "act" or "doing of an act" includes "omission to act".

The word "property" includes any matter or thing upon or in respect to which any offense may be committed.

The word "indictment" includes information, presentment, complaint, warrant and any other formal written accusation.

The word "indictment", unless a contrary intention appears, includes any count thereof.

The term "writing", "written", and any term of like import includes words printed, painted, engraved, lithographed, photographed or otherwise copied, traced or made visible to the eye.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.10.

750.10a Sexually delinquent persons; definition.

Sec. 10a. The term "sexually delinquent person" when used in this act shall mean any person whose sexual behavior is characterized by repetitive or compulsive acts which indicate a disregard of consequences or the recognized rights of others, or by the use of force upon another person in attempting sex relations of either a heterosexual or homosexual nature, or by the commission of sexual aggressions against children under the age of 16.

History: Add. 1952, Act 73, Eff. Sept. 18, 1952.

CHAPTER II
ABDUCTION

750.11 Taking a woman and compelling her to marry; felony, penalty.

Sec. 11. Taking a woman and compelling her to marry—Any person who shall take any woman unlawfully and against her will, and by force, menace, or duress, compel her to marry him or any other person, or to be defiled, shall be guilty of a felony, punishable by imprisonment in the state prison for life or any term of years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.11.

Former law: See section 22 of Ch. 153 of R.S. 1846, being CL 1857, § 5732; CL 1871, § 7531; How., § 9096; CL 1897, § 11491; CL 1915, § 15213; and CL 1929, § 16729.

750.12 Taking woman with intent to compel her to marry; felony, penalty.

Sec. 12. Taking a woman with intent to compel her to marry—Any person who shall take any woman unlawfully and against her will with intent to compel her by force, menace or duress, to marry him or any

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other person, or to be defiled, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.12.

Former law: See section 23 of Ch. 153 of R.S. 1846, being CL 1857, § 5733; CL 1871, § 7532; How., § 9097; CL 1897, § 11492; CL 1915, § 15214; and CL 1929, § 16730.

750.13 Enticing away female under sixteen; felony, penalty.

Sec. 13. Enticing away female under 16 years for purpose of marriage, etc.—Any person who shall take or entice away any female under the age of 16 years, from her father, mother, guardian, or other person having the legal charge of her person, without their consent, either for the purpose of prostitution, concubinage, sexual intercourse or marriage, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.13.

Former law: See section 24 of Ch. 153 of R.S. 1846, being CL 1857, § 5734; CL 1871, § 7533; How., § 9098; CL 1897, § 11493; CL 1915, § 15215; and CL 1929, § 16731.

CHAPTER III
ABORTION

750.14 Miscarriage; administering with intent to procure; felony, penalty.

Sec. 14. Administering drugs, etc., with intent to procure miscarriage—Any person who shall wilfully administer to any pregnant woman any medicine, drug, substance or thing whatever, or shall employ any instrument or other means whatever, with intent thereby to procure the miscarriage of any such woman, unless the same shall have been necessary to preserve the life of such woman, shall be guilty of a felony, and in case the death of such pregnant woman be thereby produced, the offense shall be deemed manslaughter.

In any prosecution under this section, it shall not be necessary for the prosecution to prove that no such necessity existed.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.14.

Constitutionality: Section held unconstitutional as relating to abortions in the first trimester of a pregnancy as authorized by the pregnant woman's attending physician in the exercise of his medical judgment. People v. Bricker, 389 Mich. 524, 208 N.W.2d 172 (1973).

Former law: See section 34 of Ch. 153 of R.S. 1846, being CL 1857, § 5744; CL 1871, § 7543; How., § 9108; CL 1897, § 11503; CL 1915, § 15225; CL 1929, § 16741; sec. 35 of Ch. 153 of R.S. 1846; Act 61 of 1867; CL 1871, § 7544; How., § 9109; CL 1897, § 11504; CL 1915, § 15226; and CL 1929, § 16742.

750.15 Abortion, drugs or medicine; advertising or sale to procure; misdemeanor.

Sec. 15. Selling drugs, etc., to produce abortion—Any person who shall in any manner, except as hereinafter provided, advertise, publish, sell or publicly expose for sale any pills, powder, drugs or combination of drugs, designed expressly for the use of females for the purpose of procuring an abortion, shall be guilty of a misdemeanor.

Any drug or medicine known to be designed and expressly prepared for producing an abortion, shall only be sold upon the written prescription of an established practicing physician of the city, village, or township in which the sale is made; and the druggist or dealer selling the same shall, in a book provided for that purpose, register the name of the purchaser, the date of the sale, the kind and quantity of the medicine sold, and the name and residence of the physician prescribing the same.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.15.

Former law: See section 1 of Act 138 of 1873, being How., § 9312; CL 1897, § 11729; CL 1915, § 15523; CL 1929, § 16885; section 3 of Act 138 of 1873, being How., § 9314; CL 1897, § 11731; CL 1915, § 15525; CL 1929, § 16887; section 2 of Act 138 of 1873, being How., § 9313; CL 1897, § 11730; CL 1915, § 15524; and CL 1929, § 16886.

CHAPTER IV
ADULTERATING AND MISBRANDING

750.16 Adulteration; drugs or medicine injurious to health; violations; penalty; "serious impairment of a body function" defined; other violations committed.

Sec. 16. (1) Except as otherwise provided in this section, a person who knowingly or recklessly commits any of the following actions is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $1,000.00, or both:

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(a) Adulterates, misbrands, removes, or substitutes a drug or medicine so as to render that drug or medicine injurious to health.

(b) Sells, offers for sale, possesses for sale, causes to be sold, or manufactures for sale a drug or medicine that has been adulterated, misbranded, removed, or substituted so as to render it injurious to health.

(2) A person who violates subsection (1), which violation results in personal injury, is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $4,000.00, or both.

(3) A person who violates subsection (1), which violation results in serious impairment of a body function, 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.

(4) A person who violates subsection (1), which violation results in death, is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $20,000.00, or both.

(5) A person who violates subsection (1) with the intent to kill or to cause serious impairment of a body function of 2 or more individuals, which violation results in death, is guilty of a felony punishable by imprisonment for life without possibility of parole or life without possibility of parole and a fine of not more than $40,000.00. It is not a defense to a charge under this subsection that the person did not intend to kill a specific individual or did not intend to cause serious impairment of a body function of 2 or more specific individuals.

(6) As used in this section, "serious impairment of a body function" means that phrase as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(7) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.16;—Am. 2002, Act 672, Eff. Mar. 31, 2003;—Am. 2004, Act 213, Eff. Oct. 12, 2004.

Former law: See section 3 of Ch. 159 of R.S. 1846, being CL 1857, § 5888; CL 1871, § 7728; How., § 9318; CL 1897, § 11406; CL 1915, § 15124; and CL 1929, § 16693.

750.17 Repealed. 1968, Act 39, Eff. Jan. 1, 1969.

Compiler's note: The repealed section pertained to adulteration and misbranding of food.

750.18 Prohibiting mixing drugs or medicine; injuriously affecting quality; violations; penalties; "serious impairment of body function" defined; other violations committed.

Sec. 18. (1) Except for the purpose of compounding in the necessary preparation of medicine, a person shall not knowingly or recklessly mix, color, stain, or powder, or order or permit another person to mix, color, stain, or powder, a drug or medicine with an ingredient or material so as to injuriously affect the quality or potency of the drug or medicine.

(2) A person shall not sell, offer for sale, possess for sale, cause to be sold, or manufacture for sale a drug or medicine mixed, colored, stained, or powdered in the manner proscribed in subsection (1).

(3) Except as otherwise provided in this section, a person who violates subsection (1) or (2) is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $1,000.00, or both.

(4) A person who violates subsection (1) or (2), which violation results in personal injury, is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $4,000.00, or both.

(5) A person who violates subsection (1) or (2), which violation results in serious impairment of a body function, 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.

(6) A person who violates subsection (1) or (2), which violation results in death, is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $20,000.00, or both.

(7) A person who violates subsection (1) or (2) with the intent to kill or to cause serious impairment of a body function of 2 or more individuals, which violation results in death, is guilty of a felony punishable by imprisonment for life without possibility of parole or life without possibility of parole and a fine of not more than $40,000.00. It is not a defense to a charge under this subsection that the person did not intend to kill a specific individual or did not intend to cause serious impairment of a body function of 2 or more specific individuals.

(8) As used in this section, "serious impairment of a body function" means that phrase as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(9) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.18;—Am. 2004, Act 213, Eff. Oct. 12, 2004.

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Former law: See section 2 of Act 254 of 1881, being How., § 9325; CL 1897, § 11427; CL 1915, § 15145; and CL 1929, § 16697.

750.19-750.24 Repealed. 1968, Act 39, Eff. Jan. 1, 1969.

Compiler's note: The repealed sections pertained to adulteration of food, drink, candy, grain or feed, honey, maple sugar, molasses, and syrup, and to misbranding of same.

750.25 Adulteration of butter and cream.

Sec. 25. (1) A person who possesses with intent to sell, or offer or expose for sale, or sell as butter or as cream, a product that is adulterated within the meaning of 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.

(2) Butter is adulterated within the meaning of this section if 1 or both of the following conditions exist:

(a) The fat content is not exclusively derived from cow's milk.

(b) The butter contains less than 80% of milk fat.

(3) Cream is adulterated within the meaning of this section if 1 or more of the following conditions exist:

(a) The cream contains less than 18% of milk fat.

(b) The cream is not that portion of milk, rich in milk fat, that rises to the surface of milk on standing, or is separated from it by centrifugal force.

(c) The cream is not clean.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1937, Act 32, Imd. Eff. May 7, 1937;—CL 1948, 750.25;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 1 to 4 of Act 78 of 1925, being CL 1929, §§ 5361 to 5364.

750.27 Adulterated cigarettes.

Sec. 27. Adulterated cigarettes—Any person within the state who manufactures, sells or gives to any one, any cigarette containing any ingredient deleterious to health or foreign to tobacco, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.27.

Former law: See section 1 of Act 226 of 1909, being CL 1915, § 5181; and CL 1929, § 12830.

750.28 Cereal beverage with alcoholic content; furnishing to minors, penalty.

Sec. 28. Any person who shall sell, give or furnish to a minor, except upon authority of and pursuant to a prescription of a duly licensed physician, any cereal beverage of any alcoholic content under the name of “near beer”, or “brew”, or “bru”, or any other name which is capable of conveying the impression to the purchaser that the beverage has an alcoholic content, shall be guilty of a misdemeanor.

History: Add. 1957, Act 283, Eff. Sept. 27, 1957.

CHAPTER V
ADULTERY

750.29 Adultery; definition.

Sec. 29. Definition—Adultery is the sexual intercourse of 2 persons, either of whom is married to a third person.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.29.

Former law: See section 2 of Ch. 158 of R.S. 1846, being CL 1857, § 5857; CL 1871, § 7691; How., § 9278; CL 1897, § 11689; CL 1915, § 15463; and CL 1929, § 16818.

750.30 Adultery; punishment.

Sec. 30. Punishment—Any person who shall commit adultery shall be guilty of a felony; and when the crime is committed between a married woman and a man who is unmarried, the man shall be guilty of adultery, and liable to the same punishment.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.30.

Former law: See section 1 of Ch. 150 of R.S. 1846, being CL 1857, § 5856; How., § 9277; CL 1897, § 11688; CL 1915, § 15462; and CL 1929, § 16817.

750.31 Adultery; complaint and time of prosecution.

Sec. 31. Complainant and time prosecution to be commenced—No prosecution for adultery, under the preceding section, shall be commenced, but on the complaint of the husband or wife; and no such prosecution shall be commenced after 1 year from the time of committing the offense.

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History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.31.

Former law: See section 3 of Ch. 158 of R.S. 1846, being CL 1857, § 5858; CL 1871, § 7693; How., § 9279; CL 1897, § 11690; CL 1915, § 15464; and CL 1929, § 16819.

750.32 Adultery; cohabitation of divorced parties.

Sec. 32. Cohabitation by divorced parties—If any persons after being divorced from the bonds of matrimony for any cause whatever, shall cohabit together, they shall be liable to all the penalties provided by law against adultery.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.32.

Former law: See section 33 of Ch. 84 of R.S. 1846, being CL 1857, § 3254; CL 1871, § 4765; How., § 6253; CL 1897, § 8645; CL 1915, § 11421; and CL 1929, § 12752.

CHAPTER VI
ADVERTISING

750.33 False advertising; penalty; excepted participants in publication.

Sec. 33. (1) A person who, with intent to sell, purchase, dispose of, or acquire merchandise, securities, service, or anything offered or sought by the person, directly or indirectly, to or from the public for sale, purchase, or distribution, or with intent to increase the consumption of merchandise, securities, service, or other thing offered or sought, or to induce the public in any manner to enter into an obligation relating to or interest in the merchandise, securities, service, or other thing offered or sought, makes, publishes, disseminates, circulates, or places before the public, or causes directly or indirectly to be made, published, disseminated, circulated, or placed before or communicated to the public, in a newspaper or by radio broadcast, television, telephone, or telegraph or other mode of communication or publication or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, letter, or communication, including communication by telephone or telegraph to 2 or more persons, or in any other way, in advertisement of any sort regarding merchandise, securities, service, or anything so offered to or sought from the public, or regarding the motive or purpose of a sale, purchase, distribution, or acquisition, which advertisement contains an assertion, representation, or statement or illustration, including statements of present or former sale price or value, which is false, deceptive, or misleading, or calculated to subject another person to disadvantage or injury through the publication of false or deceptive statements or as part of a plan or scheme with the intent, design, or purpose not to sell the merchandise, commodities, or service so advertised at the price stated therein, or otherwise communicated, or with intent not to sell the merchandise, commodities, or service so advertised is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

(2) Subsection (1) does not apply to an owner, publisher, printer, agent, or employee of a newspaper or other publication, periodical, or circular, or of a radio station or television station, who in good faith and without knowledge of the falsity or deceptive character thereof, publishes, causes to be published, or takes part in the publication of an advertisement described in subsection (1).

(3) Subsection (1) does not apply to any person, firm, or corporation providing telephone service to subscribers as a public utility.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1941, Act 340, Eff. Jan. 10, 1942;—CL 1948, 750.33;—Am. 1955, Act 176, Eff. Oct. 14, 1955;—Am. 1957, Act 180, Eff. Sept. 27, 1957;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 1 and 2 of Act 245 of 1899, being CL 1915, §§ 15340 and 15341, and CL 1929, §§ 16988 and 16989; and section 1 of Act 319 of 1925, being CL 1929, § 16990.

750.33a Character or extent of business misrepresentation; penalty.

Sec. 33a. Any person who states, in an advertisement of his goods, that he is a producer, manufacturer, processor, wholesaler or importer, or that he owns or controls a factory or other source of supply of goods, when such is not the fact, or in any other manner knowingly misrepresents the character, extent, volume or type of his business, is guilty of a misdemeanor.

History: Add. 1965, Act 105, Eff. Mar. 31, 1966.

750.34 Advertising relating to sexual diseases.

Sec. 34. A person who advertises in his or her own name or in the name of another person, firm or pretended firm, association, or corporation or pretended corporation, in a newspaper, pamphlet, circular, periodical, or other written or printed paper, or the owner, publisher, or manager of a newspaper or periodical who permits to be published or inserted in a newspaper or periodical owned or controlled by him or her, an advertisement of the treating or curing of venereal diseases, the restoration of "lost manhood" or "lost vitality

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or vigor", or advertises in any manner that he or she is a specialist in diseases of the sexual organs, or diseases caused by sexual vice or masturbation, or in any diseases of like cause, or shall advertise in any manner any medicine, drug, compound, appliance, or any means whatever whereby sexual diseases of men or women may be cured or relieved, or miscarriage or abortion produced, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.34;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 62 of 1911, being CL 1915, § 15512; and CL 1929, § 16877.

750.35 Immoral advertising; publishing and distributing.

Sec. 35. Publishing and distributing immoral advertising—Any person publishing, distributing or causing to be distributed or circulated any of the advertising matter described in the next preceding section either in newspaper or other printed or written forms, shall be guilty of a misdemeanor and punished as provided in said next preceding section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.35.

Former law: See section 2 of Act 62 of 1911, being CL 1915, § 15513; and CL 1929, § 16878.

750.36 Immoral advertising; evidence.

Sec. 36. Prima facie evidence of guilt—Any advertisement found in any newspaper, pamphlet or circular containing the words "Lost manhood", "Lost vitality or vigor" or other expressions synonymous therewith, shall be prima facie evidence of the guilt of the party or parties subscribing to the said advertisements, their agents or representatives, and the same penalties shall apply to the publishers of papers containing the same as prescribed in the next preceding section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.36.

Former law: See section 3 of Act 62 of 1911, being CL 1915, § 15514; and CL 1929, § 16879.

750.37 Immoral advertising; penalty.

Sec. 37. Penalty construed—The next 3 preceding sections of this chapter shall not be construed as creating a penalty in addition to that specified in Act No. 237 of the Public Acts of 1899, as amended, being sections 6737 to 6747, inclusive, of the Compiled Laws of 1929, for the acts made unlawful therein.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.37.

Compiler's note: Act 237 of 1899, referred to in this section, was repealed by Act 185 of 1973.

750.38 Personal violence or human form; displaying.

Sec. 38. Displaying, etc., pictures, etc., representing personal violence or human form—Any person who shall post, place or display on any sign board, bill board, fence, building, sidewalk, or other object, or in any street, road, or other public place, any sign, picture, printing or other representation of murder, assassination, stabbing, fighting or of any personal violence, or of the commission of any crime, or any representation of the human form in an attitude or dress which would be indecent in the case of a living person, if such person so appeared in any public street, square or highway, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.38.

Former law: See sections 1 and 2 of Act 205 of 1885, being How., §§ 9314f and 9314h; Act 148 of 1889; CL 1897, §§ 11724 and 11726; CL 1915, §§ 15515 and 15517; and CL 1929, §§ 16880 and 16882.

750.39 Patent medicines; publication in immoral or ambiguous language.

Sec. 39. Publication of virtues of patent medicines in immoral or ambiguous language—Any person who shall print, stamp, or engrave on any cards, bills or posters for public display or advertisement, or publish in any newspaper in the state of Michigan, the virtues or applications and its or their effects of any patent and other simple or compound medicine, in language of immoral tendency or of ambiguous character, shall be guilty of a misdemeanor. Each day that such publication appears shall be deemed a separate offense under this section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.39.

Former law: See section 1 of Act 106 of 1869, being CL 1871, § 7724; How., § 9310; CL 1897, § 11727; CL 1915, § 15521; and CL 1929, § 16883.

750.40 Private diseases; conceptive preventatives; publication of cures.

Sec. 40. Publication in indecent language of cures for private diseases and conceptive preventatives—The publication or sale within this state of any circular, pamphlet or book containing recipes or prescriptions in indecent or obscene language for the cure of chronic female complaints or private diseases, or recipes or

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prescriptions for drops, pills, tinctures, or other compounds designed to prevent conception, or tending to produce miscarriage or abortion is hereby prohibited; and for each copy thereof, so published and sold, containing such prohibited recipes or prescriptions, the publisher and seller shall each be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.40.

Former law: See section 2 of Act 106 of 1869, being CL 1871, § 7725; How., § 9311; CL 1897, § 11728; CL 1915, § 15522; and CL 1929, § 16884.

750.41 Repealed. 2002, Act 211, Imd. Eff. Apr. 29, 2002.

Compiler's note: The repealed section pertained to sale and distribution of criminal news printed matter.

750.42 Repealed. 2000, Act 238, Imd. Eff. June 27, 2000.

Compiler's note: The repealed section pertained to advertisements of intoxicating liquors referrring to deceased ex-presidents of the United States.

750.42a Outdoor sign advertising smokeless tobacco product; warning statements; local ordinance, regulation, or other law.

Sec. 42a. (1) A person who uses an outdoor sign to advertise a smokeless tobacco product shall display on the outdoor sign 1 of the following statements:

(a) "WARNING: This product may cause mouth cancer."

(b) "WARNING: This product may cause gum disease and tooth loss."

(c) "WARNING: This product is not a safe alternative to cigarettes."

(2) The warning statements required under subsection (1) shall be rotated every 4 months, and shall meet all of the following requirements:

(a) Be surrounded by a black border, the width of which is not less than the width of the vertical element of a letter in the warning statement. There shall be a 1-1/2 inch white border surrounding the black border.

(b) Be printed in capital letters that are black on a white background, and in the following size and type:

(*i*) For an outdoor sign that has a surface area of more than 150 square feet, but less than 350 square feet, the letters shall be not less than 5-1/2 inches in height and printed in univers 67 cold type.

(*ii*) For an outdoor sign that has a surface area of 350 square feet or more, but less than 1,200 square feet, the letters shall be not less than 6 inches in height and printed in univers 59 cold type.

(*iii*) For an outdoor sign that has a surface area of 1,200 square feet or more, the letters shall be not less than 8 inches in height and printed in univers 57 cold type.

(3) An ordinance, regulation, or other law enacted by a local unit of government shall not require either of the following for an outdoor sign that advertises a smokeless tobacco product:

(a) A statement other than 1 of the statements required under subsection (1).

(b) For the statements required under subsection (1), a format and type style other than the format and type style required under subsection (2).

(4) 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 $5,000.00, or both.

(5) As used in this section:

(a) "Outdoor sign" means a sign, display, device, figure, painting, drawing, message, placard, poster, or billboard that is placed outdoors, is stationary, has a surface area of more than 150 square feet, and is designed, intended, or used to advertise or promote.

(b) "Person" means an individual, corporation, partnership, or other business entity that manufactures, packages, or imports smokeless tobacco products.

(c) "Smokeless tobacco product" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

History: Add. 1988, Act 295, Eff. Mar. 30, 1989.

750.42b Selling or distributing tobacco products through U.S. mail service, express mail service, parcel post service, or common carrier prohibited; exceptions; violation as misdemeanor; penalty; definitions.

Sec. 42b. (1) Except as provided in subsection (3), a person shall not sell or distribute a tobacco product in this state through the use of the United States mail service, express mail service, parcel post service, or any common carrier service except to persons who have previously paid or agreed to pay for the products at fair market value. This subsection shall not be construed to apply to any person employed by the United States postal service or by any common carrier while carrying or delivering a tobacco product mailed or shipped by

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another person.

(2) A person shall not, as part of his, her, or its business, either directly or through an agent, distribute tobacco products to persons who did not previously pay or agree to pay for the products unless all of the following provisions are met:

(a) The person or agent distributing the tobacco product distributes only tobacco products regularly sold or manufactured by that person or agent.

(b) The person distributing the tobacco product ascertains that the person receiving the tobacco product is 18 years of age or older.

(c) The person receiving the tobacco product is physically present to receive the product.

(d) Distribution is not prohibited by any local ordinance.

(3) Subsection (1) does not prohibit the sale or distribution of a tobacco product in this state through the use of the United States mail service, express mail service, parcel post service, or any common carrier service if the sale or distribution is in response to a consumer complaint or is part of a direct mail marketing of products to specifically named individuals, and which response or marketing involves the prior return by the same specifically-named individual of an authorization card to the tobacco company that indicates that the individual is at least 18 years of age, is signed by the individual and is kept on file by the tobacco company for at least 1 year.

(4) A person who violates subsection (1) is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or by a fine of not more than $10,000.00, or both.

(5) A person who violates subsection (2) is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, a fine of not more than $500.00, service to the community for not more than 180 days, or any combination thereof.

(6) As used in this section:

(a) "Employed" includes engaged as an agent or independent contractor.

(b) "Person" means an individual, partnership, corporation, association, or other legal entity.

(c) "Sell or distribute" includes sending or providing free samples or any other distribution not for sale.

History: Add. 1992, Act 273, Imd. Eff. Dec. 16, 1992.

CHAPTER VII
AIRCRAFT AND AERONAUTICS

750.43 Aircraft and aeronautics; definitions.

Sec. 43. Definitions—Whenever the word "aircraft" is used in this chapter it shall mean any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air except a parachute or other contrivance designed and used primarily for safety equipment. "Passenger" means any person not the pilot or member of the crew of any aircraft. "Aeronaut" includes aviator, pilot, balloonist, and every other person having any part in the operation of aircraft while in flight.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.43.

Former law: See section 1 of Act 224 of 1923, being CL 1929, § 4811.

750.44 Trick or acrobatic flying.

Sec. 44. An aeronaut or passenger who, while in flight over a thickly inhabited area or over a public gathering engages in trick or acrobatic flying or in any acrobatic feat or, except while in landing or taking off, flies at such a low level as to endanger the persons on the surface beneath, or drop or release any object or thing that may endanger life or injure property except when necessary to the personal safety of the aeronaut or passenger, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1937, Act 67, Eff. Oct. 29, 1937;—CL 1948, 750.44;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 9 of Act 224 of 1923, being CL 1929, § 4819.

750.45 Open air assemblies; operation of aircraft; altitude.

Sec. 45. A person who operates an aircraft over open air assemblies of people at a height of less than 1,500 feet from the ground is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00. This section does not apply to groups assembled for the purpose of witnessing aerial exhibitions and stunt flying, nor to groups assembled at a flying field.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.45;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

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Former law: See sections 1 and 2 of Act 9 of 1926, Ex. Sess., being CL 1929, §§ 4822 and 4823.

CHAPTER VIII
ANARCHY AND CRIMINAL SYNDICALISM

750.46-750.48 Repealed. 1978, Act 571, Imd. Eff. Jan. 2, 1979.

CHAPTER IX
ANIMALS

750.49 Animal; definition; fighting, baiting, or shooting; prohibited conduct; violation as felony; costs; dog trained or used for fighting or offspring of dog trained or used for fighting; prohibited conduct; exceptions; confiscation of dog; award of dog to animal welfare agency; euthanasia; expenses; forfeiture of animals, equipment, devices, and money; additional exceptions.

Sec. 49. (1) As used in this section, "animal" means a vertebrate other than a human.

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

(a) Own, possess, use, buy, sell, offer to buy or sell, import, or export an animal for fighting or baiting, or as a target to be shot at as a test of skill in marksmanship.

(b) Be a party to or cause the fighting, baiting, or shooting of an animal as described in subdivision (a).

(c) Rent or otherwise obtain the use of a building, shed, room, yard, ground, or premises for fighting, baiting, or shooting an animal as described in subdivision (a).

(d) Permit the use of a building, shed, room, yard, ground, or premises belonging to him or her or under his or her control for any of the purposes described in this section.

(e) Organize, promote, or collect money for the fighting, baiting, or shooting of an animal as described in subdivisions (a) to (d).

(f) Be present at a building, shed, room, yard, ground, or premises where preparations are being made for an exhibition described in subdivisions (a) to (d), or be present at the exhibition, knowing that an exhibition is taking place or about to take place.

(g) Breed, buy, sell, offer to buy or sell, exchange, import, or export an animal the person knows has been trained or used for fighting as described in subdivisions (a) to (d), or breed, buy, sell, offer to buy or sell, exchange, import, or export the offspring of an animal the person knows has been trained or used for fighting as described in subdivisions (a) to (d). This subdivision does not prohibit owning, breeding, buying, selling, offering to buy or sell, exchanging, importing, or exporting an animal for agricultural or agricultural exposition purposes.

(h) Own, possess, use, buy, sell, offer to buy or sell, transport, or deliver any device or equipment intended for use in the fighting, baiting, or shooting of an animal as described in subdivisions (a) to (d).

(3) A person who violates subsection (2)(a) to (e) is guilty of a felony punishable by 1 or more of the following:

(a) Imprisonment for not more than 4 years.

(b) A fine of not less than $5,000.00 or more than $50,000.00.

(c) Not less than 500 or more than 1,000 hours of community service.

(4) A person who violates subsection (2)(f) to (h) is guilty of a felony punishable by 1 or more of the following:

(a) Imprisonment for not more than 4 years.

(b) A fine of not less than $1,000.00 or more than $5,000.00.

(c) Not less than 250 or more than 500 hours of community service.

(5) The court may order a person convicted of violating this section to pay the costs of prosecution.

(6) The court may order a person convicted of violating this section to pay the costs for housing and caring for the animal, including, but not limited to, providing veterinary medical treatment.

(7) As part of the sentence for a violation of subsection (2), the court shall order the person convicted not to own or possess an animal of the same species involved in the violation of this section for 5 years after the date of sentencing. Failure to comply with the order of the court pursuant to this subsection is punishable as contempt of court.

(8) If a person incites an animal trained or used for fighting or an animal that is the first or second generation offspring of an animal trained or used for fighting to attack a person and thereby causes the death of that person, the owner is guilty of a felony and shall be punished by imprisonment for life or by imprisonment for a maximum term of any term of years greater than 15 years.

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(9) If a person incites an animal trained or used for fighting or an animal that is the first or second generation offspring of an animal trained or used for fighting to attack a person, but the attack does not result in the death of the person, the owner 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.

(10) If an animal trained or used for fighting or an animal that is the first or second generation offspring of an animal trained or used for fighting attacks a person without provocation and causes the death of that person, the owner of the animal is guilty of a felony and shall be punished by imprisonment for a maximum term of not more than 15 years.

(11) If an animal trained or used for fighting or an animal that is the first or second generation offspring of an animal trained or used for fighting attacks a person without provocation, but the attack does not cause the death of the person, the owner 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.

(12) Subsections (8) to (11) do not apply if the person attacked was committing or attempting to commit an unlawful act on the property of the owner of the animal.

(13) If an animal trained or used for fighting or an animal that is the first or second generation offspring of a dog trained or used for fighting goes beyond the property limits of its owner without being securely restrained, the owner is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than $50.00 nor more than $500.00, or both.

(14) If an animal trained or used for fighting or an animal that is the first or second generation offspring of a dog trained or used for fighting is not securely enclosed or restrained on the owner's property, the owner is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500.00, or both.

(15) Subsections (8) to (14) do not apply to any of the following:

(a) A dog trained or used for fighting, or the first or second generation offspring of a dog trained or used for fighting, that is used by a law enforcement agency of the state or a county, city, village, or township.

(b) A certified leader dog recognized and trained by a national guide dog association for the blind or for persons with disabilities.

(c) A corporation licensed under the private security guard act of 1968, 1968 PA 330, MCL 338.1051 to 338.1085, when a dog trained or used for fighting, or the first or second generation offspring of a dog trained or used for fighting, is used in accordance with the private security guard act of 1968, 1968 PA 330, MCL 338.1051 to 338.1085.

(16) An animal that has been used to fight in violation of this section or that is involved in a violation of subsections (8) to (14) shall be confiscated as contraband by a law enforcement officer and shall not be returned to the owner, trainer, or possessor of the animal. The animal shall be taken to a local humane society or other animal welfare agency. If an animal owner, trainer, or possessor is convicted under subsection (2) or subsections (8) to (14), the court shall award the animal involved in the violation to the local humane society or other animal welfare agency.

(17) Upon receiving an animal confiscated under this section, or at any time thereafter, an appointed veterinarian, the humane society, or other animal welfare agency may humanely euthanize the animal if, in the opinion of that veterinarian, humane society, or other animal welfare agency, the animal is injured or diseased past recovery or the animal's continued existence is inhumane so that euthanasia is necessary to relieve pain and suffering.

(18) A humane society or other animal welfare agency that receives an animal pursuant to this section shall apply to the district court or municipal court for a hearing to determine whether the animal shall be humanely euthanized because of its lack of any useful purpose and the public safety threat it poses. The court shall hold a hearing not more than 30 days after the filing of the application and shall give notice of the hearing to the owner of the animal. Upon a finding by the court that the animal lacks any useful purpose and poses a threat to public safety, the humane society or other animal welfare agency shall humanely euthanize the animal. Expenses incurred in connection with the housing, care, upkeep, or euthanasia of the animal by a humane society or other animal welfare agency, or by a person, firm, partnership, corporation, or other entity, shall be assessed against the owner of the animal.

(19) Subject to subsections (16) to (18), all animals being used or to be used in fighting, equipment, devices and money involved in a violation of subsection (2) shall be forfeited to the state. All other instrumentalities, proceeds, and substituted proceeds of a violation of subsection (2) are subject to forfeiture under chapter 47 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709.

(20) This section does not apply to conduct that is permitted by and is in compliance with any of the following:

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(a) Part 401 (wildlife conservation) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40101 to 324.40119.

(b) Part 435 (hunting and fishing licensing) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43501 to 324.44106.

(c) Part 427 (breeders and dealers) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.42701 to 324.42714.

(d) Part 417 (private shooting preserves) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.41701 to 324.41712.

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

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.49;—Am. 1976, Act 392, Eff. Mar. 31, 1977;—Am. 1988, Act 381, Eff. Mar. 30, 1989;—Am. 1995, Act 228, Eff. Jan. 1, 1996;—Am. 1998, Act 38, Imd. Eff. Mar. 18, 1998.

Former law: See section 2 of Act 70 of 1877; How., § 9392; Act 48 of 1893; CL 1897, § 11740; Act 234 of 1899; CL 1915, § 15536; and CL 1929, § 17067.

750.50 Definitions; charge or custody of animal; prohibited conduct; forfeiture of animal; violation as misdemeanor or felony; penalty; order to pay costs; order prohibiting owning or possessing animal for certain period of time; violation of subsection (6); revocation of probation; certain conduct not prohibited by section.

Sec. 50. (1) As used in this section and section 50b:

(a) "Adequate care" means the provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention in order to maintain an animal in a state of good health.

(b) "Animal" means 1 or more vertebrates other than a human being.

(c) "Animal protection shelter" means a facility operated by a person, humane society, society for the prevention of cruelty to animals, or any other nonprofit organization for the care of homeless animals.

(d) "Animal control shelter" means a facility operated by a county, city, village, or township to impound and care for animals found in streets or otherwise at large contrary to any ordinance of the county, city, village, or township or state law.

(e) "Licensed veterinarian" means a person licensed to practice veterinary medicine under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(f) "Livestock" means that term as defined in the animal industry act of 1987, 1988 PA 466, MCL 287.701 to 287.747.

(g) "Person" means an individual, partnership, limited liability company, corporation, association, governmental entity, or other legal entity.

(h) "Neglect" means to fail to sufficiently and properly care for an animal to the extent that the animal's health is jeopardized.

(i) "Sanitary conditions" means space free from health hazards including excessive animal waste, overcrowding of animals, or other conditions that endanger the animal's health. This definition does not include a condition resulting from a customary and reasonable practice pursuant to farming or animal husbandry.

(j) "Shelter" means adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health. Shelter, for livestock, includes structures or natural features such as trees or topography. Shelter for a dog shall include 1 or more of the following:

(*i*) The residence of the dog's owner or other individual.

(*ii*) A doghouse that is an enclosed structure with a roof and of appropriate dimensions for the breed and size of the dog. The doghouse shall have dry bedding when the outdoor temperature is or is predicted to drop below freezing.

(*iii*) A structure, including, but not limited to, a garage, barn, or shed that is sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a doghouse as provided under subparagraph (*ii*) that is accessible to the dog.

(k) "State of good health" means freedom from disease and illness, and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

(*l*) "Tethering" means the restraint and confinement of a dog by use of a chain, rope, or similar device.

(m) "Water" means potable water that is suitable for the age and species of animal, made regularly available unless otherwise directed by a veterinarian licensed to practice veterinary medicine.

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(2) An owner, possessor, or person having the charge or custody of an animal shall not do any of the following:

(a) Fail to provide an animal with adequate care.

(b) Cruelly drive, work, or beat an animal, or cause an animal to be cruelly driven, worked, or beaten.

(c) Carry or cause to be carried in or upon a vehicle or otherwise any live animal having the feet or legs tied together, other than an animal being transported for medical care, or a horse whose feet are hobbled to protect the horse during transport or in any other cruel and inhumane manner.

(d) Carry or cause to be carried a live animal in or upon a vehicle or otherwise without providing a secure space, rack, car, crate, or cage, in which livestock may stand, and in which all other animals may stand, turn around, and lie down during transportation, or while awaiting slaughter. As used in this subdivision, for purposes of transportation of sled dogs, "stand" means sufficient vertical distance to allow the animal to stand without its shoulders touching the top of the crate or transportation vehicle.

(e) Abandon an animal or cause an animal to be abandoned, in any place, without making provisions for the animal's adequate care, unless premises are temporarily vacated for the protection of human life during a disaster. An animal that is lost by an owner or custodian while traveling, walking, hiking or hunting shall not be regarded as abandoned under this section when the owner or custodian has made a reasonable effort to locate the animal.

(f) Willfully or negligently allow any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled, or nonambulatory to suffer unnecessary neglect, torture, or pain.

(g) Tether a dog unless the tether is at least 3 times the length of the dog as measured from the tip of its nose to the base of its tail and is attached to a harness or nonchoke collar designed for tethering.

(3) If an animal is impounded and is being held by an animal control shelter or its designee or an animal protection shelter or its designee or a licensed veterinarian pending the outcome of a criminal action charging a violation of this section or section 50b, before final disposition of the criminal charge, the prosecuting attorney may file a civil action in the court that has jurisdiction of the criminal action, requesting that the court issue an order forfeiting the animal to the animal control shelter or animal protection shelter or to a licensed veterinarian before final disposition of the criminal charge. The prosecuting attorney shall serve a true copy of the summons and complaint upon the defendant and upon a person with a known ownership interest or known security interest in the animal or a person who has filed a lien with the secretary of state in an animal involved in the pending action. The forfeiture of an animal under this section encumbered by a security interest is subject to the interest of the holder of the security interest who did not have prior knowledge of, or consent to the commission of the crime. Upon the filing of the civil action, the court shall set a hearing on the complaint. The hearing shall be conducted within 14 days of the filing of the civil action, or as soon as practicable. The hearing shall be before a judge without a jury. At the hearing, the prosecuting attorney has the burden of establishing by a preponderance of the evidence that a violation of this section or section 50b occurred. If the court finds that the prosecuting attorney has met this burden, the court shall order immediate forfeiture of the animal to the animal control shelter or animal protection shelter or the licensed veterinarian unless the defendant, within 72 hours of the hearing, submits to the court clerk cash or other form of security in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal from the date of initial impoundment to the date of trial. If cash or other security has been submitted, and the trial in the action is continued at a later date, any order of continuance shall require the defendant to submit additional cash or security in an amount determined by the court to be sufficient to repay all additional reasonable costs anticipated to be incurred by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal until the new date of trial. If the defendant submits cash or other security to the court under this subsection the court may enter an order authorizing the use of that money or other security before final disposition of the criminal charges to pay the reasonable costs incurred by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal from the date of impoundment to the date of final disposition of the criminal charges. The testimony of a person at a hearing held under this subsection is not admissible against him or her in any criminal proceeding except in a criminal prosecution for perjury. The testimony of a person at a hearing held under this subsection does not waive the person's constitutional right against self-incrimination. An animal seized under this section or section 50b is not subject to any other civil action pending the final judgment of the forfeiture action under this subsection.

(4) A person who violates subsection (2) 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 community service for not more than 200 hours, or any combination of these penalties and the cost of prosecution. A person who violates subsection (2) on a second occasion is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not

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more than $2,000.00 or community service for not more than 300 hours, or any combination of these penalties and the cost of prosecution. A person who violates subsection (2) on a third or subsequent occasion is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00 or community service for not more than 500 hours, or any combination of these penalties and the cost of prosecution.

(5) If forfeiture is not ordered pursuant to subsection (3), as a part of the sentence for a violation of subsection (2), the court may order the defendant to pay the costs of the care, housing, and veterinary medical care for the animal, as applicable. If the court does not order a defendant to pay all of the applicable costs listed in this subsection, or orders only partial payment of these costs, the court shall state on the record the reason for that action.

(6) As a part of the sentence for a violation of subsection (2), the court may, as a condition of probation, order the defendant not to own or possess an animal for a period of time not to exceed the period of probation. If a person is convicted of a second or subsequent violation of subsection (2), a court order under this subsection may order the defendant not to own or possess an animal for any period of time which may include permanent relinquishment of animal ownership.

(7) A person who owns or possesses an animal in violation of an order issued under subsection (6) is subject to revocation of probation if the order is issued as a condition of probation. A person who owns or possesses an animal in violation of an order issued under subsection (6) is also subject to the civil and criminal contempt power of the court, and if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days, or by a fine of not more than $500.00, or both.

(8) This section does not prohibit the lawful killing or other use of an animal, including, but not limited to, the following:

(a) Fishing.

(b) Hunting, trapping, or wildlife control regulated pursuant to the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

(c) Horse racing.

(d) The operation of a zoological park or aquarium.

(e) Pest or rodent control.

(f) Farming or a generally accepted animal husbandry or farming practice involving livestock.

(g) Activities authorized pursuant to rules promulgated under section 9 of the executive organization act of 1965, 1965 PA 380, MCL 16.109.

(h) Scientific research pursuant to 1969 PA 224, MCL 287.381 to 287.395.

(i) Scientific research pursuant to sections 2226, 2671, 2676, and 7333 of the public health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, and 333.7333.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.50;—Am. 1988, Act 204, Imd. Eff. June 29, 1988;—Am. 1994, Act 334, Eff. Apr. 1, 1995;—Am. 1996, Act 458, Eff. Mar. 31, 1997;—Am. 1998, Act 405, Imd. Eff. Dec. 21, 1998.

Former law: See section 3 of Act 70 of 1877, being How., § 9393; CL 1897, § 11741; Act 321 of 1913; CL 1915, § 15537; and CL 1929, § 17068.

750.50a Guide or leader dog; prohibited conduct by individual; violation as misdemeanor; rebuttable presumption that conduct initiated or continued maliciously; conviction or sentence under other applicable law; definitions.

Sec. 50a. (1) An individual shall not do either of the following:

(a) Willfully and maliciously assault, beat, harass, injure, or attempt to assault, beat, harass or injure a dog that he or she knows or has reason to believe is a guide or leader dog for a blind individual, a hearing dog for a deaf or audibly impaired individual, or a service dog for a physically limited individual.

(b) Willfully and maliciously impede or interfere with, or attempt to impede or interfere with duties performed by a dog that he or she knows or has reason to believe is a guide or leader dog for a blind individual, a hearing dog for a deaf or audibly impaired individual, or a service dog for a physically limited individual.

(2) An individual who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500.00, or both.

(3) In a prosecution for a violation of subsection (1), evidence that the defendant initiated or continued conduct directed toward a dog described in subsection (1) after being requested to avoid or discontinue that conduct or similar conduct by a blind, deaf, audibly impaired, or physically limited individual being served or assisted by the dog shall give rise to a rebuttable presumption that the conduct was initiated or continued maliciously.

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(4) A conviction and imposition of a sentence under this section does not prevent a conviction and imposition of a sentence under any other applicable provision of law.

(5) As used in this section:

(a) "Audibly impaired" means the inability to hear air conduction thresholds at an average of 40 decibels or greater in the individual's better ear.

(b) "Blind" means having a visual acuity of 20/200 or less in the individual's better eye with correction, or having a limitation of the individual's field of vision such that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.

(c) "Deaf" means the individual's hearing is totally impaired or the individual's hearing, with or without amplification, is so seriously impaired that the primary means of receiving spoken language is through other sensory input, including, but not limited to, lip reading, sign language, finger spelling, or reading.

(d) "Harass" means to engage in any conduct directed toward a guide, leader, hearing, or service dog that is likely to impede or interfere with the dog's performance of its duties or that places the blind, deaf, audibly impaired, or physically limited individual being served or assisted by the dog in danger of injury.

(e) "Injure" means to cause any physical injury to a dog described in subsection (1).

(f) "Maliciously" means any of the following:

(*i*) With intent to assault, beat, harass or injure a dog described in subsection (1).

(*ii*) With intent to impede or interfere with duties performed by a dog described in subsection (1).

(*iii*) With intent to disturb, endanger, or cause emotional distress to a blind, deaf, audibly impaired, or physically limited individual being served or assisted by a dog described in subsection (1).

(*iv*) With knowledge that the individual's conduct will, or is likely to harass or injure a dog described in subsection (1).

(*v*) With knowledge that the individual's conduct will, or is likely to impede or interfere with duties performed by a dog described in subsection (1).

(*vi*) With knowledge that the individual's conduct will, or is likely to disturb, endanger, or cause emotional distress to a blind, deaf, audibly impaired, or physically limited individual being served or assisted by a dog described in subsection (1).

(g) "Physically limited" means having limited ambulatory abilities and includes but is not limited to having a temporary or permanent impairment or condition that does 1 or more of the following:

(*i*) Causes the individual to use a wheelchair or walk with difficulty or insecurity.

(*ii*) Affects sight or hearing to the extent that an individual is insecure or exposed to danger.

(*iii*) Causes faulty coordination.

(*iv*) Reduces mobility, flexibility, coordination, or perceptiveness.

History: Add. 1994, Act 42, Eff. June 1, 1994.

750.50b Animal defined; prohibited acts; violation; penalty; exceptions.

Sec. 50b. (1) As used in this section, "animal" means any vertebrate other than a human being.

(2) A person who willfully, maliciously and without just cause or excuse kills, tortures, mutilates, maims, or disfigures an animal or who willfully and maliciously and without just cause or excuse administers poison to an animal, or exposes an animal to any poisonous substance, other than a substance that is used for therapeutic veterinary medical purposes, with the intent that the substance be taken or swallowed by the animal, is guilty of a felony, punishable by imprisonment for not more than 4 years, or by a fine of not more than $5,000.00, or community service for not more than 500 hours or any combination of these penalties.

(3) As a part of the sentence for a violation of subsection (2), the court may order the defendant to pay the costs of the prosecution and the costs of the care, housing, and veterinary medical care for the impacted animal victim, as applicable. If the court does not order a defendant to pay all of the applicable costs listed in this subsection, or orders only partial payment of these costs, the court shall state on the record the reasons for that action.

(4) If a term of probation is ordered for a violation of subsection (2), the court may order, as a condition of probation, that the defendant be evaluated to determine the need for psychiatric or psychological counseling, and, if determined appropriate by the court, to receive psychiatric or psychological counseling at his or her own expense.

(5) As a part of the sentence for a violation of subsection (2), the court may order the defendant not to own or possess an animal for any period of time determined by the court, which may include permanent relinquishment.

(6) A person who owns or possesses an animal in violation of an order issued under subsection (5) is subject to revocation of probation if the order is issued as a condition of probation. A person who owns or possesses an animal in violation of an order issued under subsection (5) is also subject to the civil and

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criminal contempt power of the court, and if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days, or by a fine of not more than $500.00, or both.

(7) This section does not prohibit the lawful killing of livestock or a customary animal husbandry or farming practice involving livestock. As used in this subsection, "livestock" has the meaning attributed to the term in the animal industry act of 1987, Act No. 466 of the Public Acts of 1988, being sections 287.701 to 287.747 of the Michigan Compiled Laws.

(8) This section does not prohibit the lawful killing of an animal pursuant to any of the following:

(a) Fishing.

(b) Hunting, trapping, or wildlife control regulated pursuant to part 401 (wildlife conservation) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.40101 to 324.40119 of the Michigan Compiled Laws, and orders issued under that act.

(c) Pest or rodent control regulated pursuant to part 83 (pesticide control) of Act No. 451 of the Public Acts of 1994, being sections 324.8301 to 324.8336 of the Michigan Compiled Laws.

(d) Activities authorized pursuant to rules promulgated under section 9 of the executive organization act of 1965, Act No. 380 of the Public Acts of 1965, being section 16.109 of the Michigan Compiled Laws.

(9) This section does not prohibit the lawful killing or use of an animal for scientific research pursuant to any of the following or a rule promulgated pursuant to any of the following:

(a) Act No. 224 of the Public Acts of 1969, being sections 287.381 to 287.395 of the Michigan Compiled Laws.

(b) Sections 2226, 2671, 2676, 7109, and 7333 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.2226, 333.2671, 333.2676, 333.7109, and 333.7333 of the Michigan Compiled Laws.

History: Add. 1994, Act 126, Eff. Mar. 30, 1995;—Am. 1996, Act 80, Imd. Eff. Feb. 27, 1996.

750.50c Police dog or police horse; definitions; violation as felony or misdemeanor; penalty; other violations.

Sec. 50c. (1) As used in this section:

(a) "Dog handler" means a peace officer who has successfully completed training in the handling of a police dog pursuant to a policy of the law enforcement agency that employs that peace officer.

(b) "Physical harm" means any injury to a dog's or horse's physical condition.

(c) "Police dog" means a dog used by a law enforcement agency of this state or of a local unit of government of this state that is trained for law enforcement work and subject to the control of a dog handler.

(d) "Police horse" means a horse used by a law enforcement agency of this state or of a local unit of government of this state for law enforcement work.

(e) "Serious physical harm" means any injury to a dog's or horse's physical condition or welfare that is not necessarily permanent but that constitutes substantial body disfigurement, or that seriously impairs the function of a body organ or limb.

(2) A person shall not intentionally kill or cause serious physical harm to a police dog or police horse.

(3) A person shall not intentionally cause physical harm to a police dog or police horse.

(4) A person shall not intentionally harass or interfere with a police dog or police horse lawfully performing its duties.

(5) A person who violates subsection (2) 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.

(6) Except as provided in subsection (7), a person who violates subsection (3) or (4) 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.

(7) A person who violates subsection (3) or (4) while committing a crime is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $1,500.00, or both.

(8) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law committed by that individual while violating this section.

History: Add. 1994, Act 336, Eff. Apr. 1, 1995;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

750.51 Animals; confining on railroad cars.

Sec. 51. Confining animals on railroad cars—No railroad company, in the carrying or transportation of animals, shall permit the same to be confined in cars for a longer period than 36 consecutive hours without unloading the same for rest, water, and feeding, for a period of at least 5 consecutive hours, unless prevented from so unloading by storm, or other accidental causes. In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received shall be

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included, it being the intention to prevent their continuous confinement beyond the period of 36 hours, except on contingencies hereinbefore stated. Animals so unloaded shall be properly fed, watered, and sheltered during such rest, by the owner or person having the custody thereof, or, in case of his default in so doing, then the railroad company transporting the same, at the expense of said owner or person in custody thereof; and said company shall in such case have a lien upon such animals for food, care and custody furnished, and shall not be liable for any detention of such animals.

Any company, owner or custodian of such animals, who shall fail to comply with the provisions of this section, shall, for each and every such offense, be liable for, and forfeit, and pay a penalty of not less than 100 dollars nor more than 500 dollars: Provided, however, That when animals shall be carried in cars in which they can and do have proper food, water, space and opportunity for rest, the foregoing provisions in regard to their being unloaded shall not apply.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.51.

Former law: See section 4 of Act 70 of 1877, being How., § 9394; CL 1897, § 11742; CL 1915, § 15538; Act 14 of 1919; and CL 1929, § 17069.

750.52 Duty of public officers.

Sec. 52. Duty of public officers—It shall also be the duty of all sheriffs, deputy sheriffs, constables, policemen and public officers, to arrest and prosecute all persons of whose violation of the provisions of the preceding sections of this chapter they may have knowledge or reasonable notice, and for each neglect of such duty, the officer so offending shall be deemed guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.52.

750.53 Arrest of persons; seizure of animals.

Sec. 53. Arrest of persons and seizure of animals—Persons found violating any of the provisions of the preceding sections of this chapter may be arrested and held without warrant, in like manner as in the case of persons found breaking the peace, and it shall be the duty of the person making the arrest to seize all animals and fowls found in the keeping or custody of the person arrested, and which are then being used, or held for use in violation of any of the provisions of the preceding sections of this chapter, and the person making such seizure shall cause such animals or fowls to be at once delivered to a poundmaster of the city, village or township in which the same may be, and it shall be the duty of such poundmaster to receive such animals or fowls, and to hold the same and proceed in regard to them in all respects as provided by law in other cases of animals impounded.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.53.

750.54 Search warrants.

Sec. 54. Search warrant—When complaint is made, on oath or affirmation, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that any of the provisions of the preceding sections of this chapter are being, or are about to be violated in any particular building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue and deliver a search warrant to any sheriff, deputy sheriff, constable or public officer, authorizing him to search such building or place and to arrest any person or persons engaged in violating any of the provisions of the preceding sections of this chapter, as well as any person or persons there present, and aiding or abetting therein, and to bring such person or persons before some magistrate of competent jurisdiction, to be dealt with according to law. Such officer shall, at the same time, seize and bring to said magistrate every article or instrument found in said building or place especially designed or adapted to torture or inflict wounds upon any animal or to aid in the fighting or baiting of any animal; and unless within 10 days after the trial of the person or persons so arrested, the owner of said article or instrument shall show, to the satisfaction of said magistrate, that the same is not designed or adapted to the wounding or torture of animals, or if so designed or adapted, is not intended to be used or employed for such purpose, the magistrate shall destroy such article or instrument.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.54.

750.55 Incorporated society; representative deputy sheriff.

Sec. 55. Any society incorporated in this state for the purpose of preventing cruelty to animals may designate 1 or more persons in each county of the state to discover and prosecute all cases of the violation of the provisions of this chapter; and the sheriff of such county may appoint each person so designated a deputy sheriff, provided such person shall be of good moral character, and each person so appointed by the sheriff shall possess all the powers of a sheriff of the county in the enforcement of the provisions of this chapter. The sheriff shall not be responsible for any of the acts of such person or persons, but the society, if incorporated,

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and if not, then the officers and members of the society, on the request of which such person was appointed, shall be liable in the degree of a principal for the acts of an agent.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.55;—Am. 1968, Act 105, Imd. Eff. June 7, 1968.

750.56 Definitions.

Sec. 56. Definitions—In the preceding sections of this chapter the word "animal" or "animals" shall be held to include all brute creatures, and the words "owner", "person", and "whoever" shall be held to include corporations as well as individuals, and the knowledge and acts of agents of and persons employed by corporations in regard to animals transported, owned, or employed by, or in the custody of such corporations, shall be held to be the acts and knowledge of such corporations.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.56.

750.57 Burial of dead animals.

Sec. 57. A person who places a dead animal or part of the carcass of a dead animal into a lake, river, creek, pond, road, street, alley, lane, lot, field, meadow, or common, or in any place within 1 mile of the residence of a person, except the same and every part of the carcass is buried at least 4 feet underground, and the owner or owners thereof who knowingly permits the carcass or part of a carcass to remain in any of those places, to the injury of the health, or to the annoyance of another is guilty of a misdemeanor. Every 24 hours that the owner permits the carcass or part of a carcass to remain after a conviction under this section is an additional offense under this section, a misdemeanor punishable by a fine of not less than $50.00 or more than $500.00 or by imprisonment for not more than 90 days.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.57;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 70 of 1867, being CL 1871, § 7734; How., § 9323; CL 1897, § 11432; CL 1915, § 15150; and CL 1929, § 5306.

750.58 Horses; unhitching and driving away.

Sec. 58. Unhitching and driving away horses without authority—Any person who shall wilfully and maliciously or wantonly, and without authority unhitch any horse or team belonging to another, and lawfully hitched or standing in any street, alley or other place, or who in like manner shall ride or drive such horse or team away shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.58.

Former law: See section 1 of Act 97 of 1885, being How., § 9199a; CL 1897, § 11602; CL 1915, § 15360; and CL 1929, § 16968.

750.59 Animals unfit for work; disposition and use.

Sec. 59. Disposition and use of animals permanently unfit for work—Any person who shall offer for sale or sell or trade any horse or mule which by reason of debility, disease, lameness, injury or for any other cause is permanently unfit for work, except to a person or corporation operating a horse hospital, animal retreat farm or other institution or place designed or maintained for the humane keeping, treatment or killing of horses, mules or other live stock, shall be guilty of a misdemeanor.

Any person who shall lead, drive or ride any horse or mule, which by reason of debility, disease, lameness or injury, or for other cause is permanently unfit for work, on any public way for any purpose, except that of conveying such animal to a proper place for its humane keeping, or killing or for medical or surgical treatment shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.59.

Former law: See sections 1 to 3 of Act 354 of 1913, being CL 1915, §§ 15546 to 15548; CL 1929, §§ 17077 to 17079; and Act 129 of 1915.

750.60 Horses' tails; docking.

Sec. 60. (1) A person who cuts the bone of the tail of a horse for the purpose of docking the tail, or who causes or knowingly permits the cutting to be done upon the premises of which he or she is the owner, lessee, proprietor, or user, or who assists in or is present at such cutting, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00. However, this subsection does not apply to the cutting of the bone of the tail of a horse for the purpose of docking the tail when a certificate of a regularly qualified veterinary surgeon is first obtained certifying that the cutting is necessary for the health or safety of the horse.

(2) If a horse is found with its tail cut and with the wound resulting from the cutting unhealed, upon the premises of any person, those facts shall be prima facie evidence that the person occupying or using the premises on which that horse is found has committed the offense described in subsection (1).

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(3) If a horse is found with its tail cut and with the wound resulting therefrom unhealed, in the charge or custody of any person, that fact shall be prima facie evidence that the person having the charge or custody of that horse has committed the offense charged in subsection (1).

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.60;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 1 to 3 of Act 45 of 1901, being CL 1915, §§ 15549 to 15551; CL 1929, §§ 17080 to 17082; and Act 322 of 1905.

750.61 Docked horses; registration, bringing into state.

Sec. 61. Importation, etc., of unregistered docked horses—It shall be unlawful for any person or persons to import or bring into this state any docked horse or horses, or to drive, work, use, race or deal in any docked horse or horses within this state, unless the same shall be registered as provided for in the succeeding section of this chapter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.61.

Former law: See section 4 of Act 45 of 1901, being CL 1915, § 15552; and CL 1929, § 17083.

750.62 Docked horses; registration.

Sec. 62. Registration of docked horses—Within 90 days after this act shall take effect, every owner or user of any docked horse within this state shall register such docked horse or horses by filing in the office of the county clerk of the county in which such docked horse or horses may be kept, a certificate which shall contain the name or names of the owner or owners, together with his or their post office address, together with a full description of the color, age, size and the use made of such docked horse or horses, which certificate shall be signed by the owner or the owners, or his or their agent. The county clerk shall number such certificates consecutively and shall record the same in a book kept for that purpose, and shall receive as a fee for the recording of such certificate the sum of 50 cents: Provided, This section shall not apply to or make necessary the re-registration of docked horses which have been registered pursuant to Act No. 45 of the Public Acts of 1901, as amended, being sections 17080 to 17086 inclusive of the Compiled Laws of 1929.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.62.

Compiler's note: Act 45 of 1901, referred to in this section, was repealed by Act 328 of 1931.

Former law: See section 5 of Act 45 of 1901, being CL 1915, § 15553; and CL 1929, § 17084.

750.63 Docked horses; unlawful docking, evidence.

Sec. 63. Prima facie evidence of unlawful docking—The driving, working, keeping, racing or using of any unregistered docked horse or horses subsequent to 90 days after this act shall take effect shall be deemed prima facie evidence of the fact that the party driving, working, keeping, racing or using such unregistered docked horse or horses, unlawfully docked the tail of such horse or horses.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.63.

Former law: See section 6 of Act 45 of 1901, being CL 1915, § 15554; and CL 1929, § 17085.

750.64 Docked horses; failure to register.

Sec. 64. A person who violates a provision of this chapter by failing to register a docked horse as herein provided is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.64;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 7 of Act 45 of 1901, being CL 1915, § 15555; and CL 1929, § 17086.

750.65 Bull; at large on highway or unenclosed land.

Sec. 65. Any person being the owner of a bull 6 months or more of age or having the same in charge, who shall permit said bull to run at large upon any highway or unenclosed lands shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for not more than 30 days or by a fine of not more than $100.00, or both such fine and imprisonment in the discretion of the court.

History: Add. 1947, Act 30, Eff. Oct. 11, 1947;—CL 1948, 750.65.

Former law: See section 1 of Act 185 of 1863, being CL 1871, § 2069; How., § 2133; CL 1897, § 5657; CL 1915, § 7347; CL 1929, § 5202; Act 29 of 1919; and Act 4 of 1921.

750.67 Domestic animals or fowl on cemetery grounds, landing fields, airports.

Sec. 67. Domestic animals or fowl on cemetery grounds, landing fields and airports—Any owner or keeper of any domestic animal or fowl, who shall allow any domestic animal or fowl to run at large and enter or be upon any premises constituting a cemetery, landing field or airport in this state, shall be guilty of a

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misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1933, Act 155, Imd. Eff. June 22, 1933;—CL 1948, 750.67.

Former law: See sections 1 and 2 of Act 34 of 1915, being CL 1915, §§ 11198 and 11199; and CL 1929, §§ 9045 and 9046.

750.68 Brand of animals.

Sec. 68. Changing, etc., brand of animals—Any person who shall mark or brand, or alter or deface the mark or brand of any domestic animal, the property of another, with intent thereby to steal the same, or to prevent identification thereof by the true owner, shall be guilty of felony, and any person who shall mark or brand, or alter or deface the mark or brand of any domestic animal whether the property of himself or another with intent to sell, ship, trade or give away contrary to law any animal which has given the positive reaction to the bovine tuberculosis test or the blood test for Bang's disease or with intent to avoid any lawful quarantine of such animal, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1937, Act 57, Imd. Eff. May 27, 1937;—CL 1948, 750.68.

Former law: See section 3 of Act 122 of 1893, being How., § 2074c; CL 1897, § 5662; CL 1915, § 7352; and CL 1929, § 5292.

750.69 Rescuing animals.

Sec. 69. Rescuing animals—Any person who shall rescue any cattle, horse, mule, sheep, swine or goat when impounded, or while being driven or taken to the pound or other place of custody by any officer or person in charge of such animals, or while such animals are shut up by and in the custody of any person for trespassing upon premises, or for running at large contrary to law, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.69.

Former law: See section 9 of Act 248 of 1879, being How., § 3076; CL 1897, § 5621; CL 1915, § 7301; CL 1929, § 9055; and Act 196 of 1881.

750.70 Impounding animals unlawfully.

Sec. 70. Unlawfully impounding animals—Any person who shall take any animal mentioned in the next preceding section not running at large contrary to law from the stable, pasture, or any enclosure or other place where such animals are lawfully and rightfully kept, or may be, and any person who shall drive, or let them out, or untie, or unloose the same, or shall knowingly seize or take the same from the custody of any person driving or taking the same on the public highway or streets to or from a pasture or to or from any other place where the same may be lawfully taken or driven, for the purpose of impounding such animals contrary to law, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.70.

Former law: See section 10 of Act 248 of 1879, being How., § 3077; CL 1897, § 5622; CL 1915, § 7302; CL 1929, § 9056; and Act 196 of 1881.

CHAPTER X
ARSON AND BURNING

750.71 Arson and burning; definitions.

Sec. 71. Definition of "burn"—The term "burn" as used in this chapter shall mean setting fire to, or doing any act which results in the starting of a fire, or aiding, counseling, inducing, persuading or procuring another to do such act or acts.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.71.

Former law: See section 1 of Act 38 of 1927, being CL 1929, § 16933.

750.72 Burning dwelling house.

Sec. 72. Burning dwelling house—Any person who wilfully or maliciously burns any dwelling house, either occupied or unoccupied, or the contents thereof, whether owned by himself or another, or any building within the curtilage of such dwelling house, or the contents thereof, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 20 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1945, Act 260, Eff. Sept. 6, 1945;—CL 1948, 750.72.

Former law: See section 2 of Act 38 of 1927, being CL 1929, § 16934; and Act 272 of 1929.

750.73 Burning of other real property.

Sec. 73. Burning of other real property—Any person who wilfully or maliciously burns any building or other real property, or the contents thereof, other than those specified in the next preceding section of this chapter, the property of himself or another, shall be guilty of a felony, punishable by imprisonment in the state

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prison for not more than 10 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1945, Act 260, Eff. Sept. 6, 1945;—CL 1948, 750.73.

Former law: See section 3 of Act 38 of 1927, being CL 1929, § 16935; and Act 272 of 1929.

750.74 Burning of personal property.

Sec. 74. (1) A person who willfully and maliciously burns any personal property, other than personal property specified in section 72 or 73, owned by himself or herself or another person is guilty of a crime as follows:

(a) If the value of the personal property burned or intended to be burned is less than $200.00, 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 3 times the value of the personal property burned or intended to be burned, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value of the personal property burned or intended to be burned, whichever is greater, or both imprisonment and a fine:

(*i*) The value of the personal property burned or intended to be burned is $200.00 or more but less than $1,000.00.

(*ii*) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(c) 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 3 times the value of the personal property burned or intended to be burned, whichever is greater, or both imprisonment and a fine:

(*i*) The value of the personal property burned or intended to be burned is $1,000.00 or more but less than $20,000.00.

(*ii*) The person violates subdivision (b)(*i*) and has 1 or more prior convictions for violating or attempting to violate this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the personal property burned or intended to be burned, whichever is greater, or both imprisonment and a fine:

(*i*) The personal property burned or intended to be burned has a value of $20,000.00 or more.

(*ii*) The person violates subdivision (c)(*i*) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(2) The values of personal property burned or intended to be burned in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of personal property burned or intended to be burned.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1945, Act 260, Eff. Sept. 6, 1945;—CL 1948, 750.74;—Am. 1998, Act 312, Eff. Jan. 1, 1999.

Former law: See section 4 of Act 38 of 1927, being CL 1929, § 16936; and Act 272 of 1929.

750.75 Burning of insured property.

Sec. 75. Burning of insured property—Any person who shall wilfully burn any building or personal property which shall be at the time insured against loss or damage by fire with intent to injure and defraud the insurer, whether such person be the owner of the property or not, shall be guilty of a felony, punishable by

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imprisonment in the state prison not more than 10 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.75.

Former law: See section 5 of Act 38 of 1927, being CL 1929, § 16937.

750.76 Applicability of preceding sections.

Sec. 76. Applicability of preceding sections—The preceding sections of this chapter shall apply to a married woman who may commit any of the offenses herein described although the property burnt may belong partly or wholly to her husband; and said preceding sections shall also apply to a married man although the property burnt may belong partly or wholly to his wife; and although said property may be occupied by such married man or married woman, or by such married man and wife as a residence.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.76.

Former law: See section 6 of Act 38 of 1927, being CL 1929, § 16939.

750.77 Willfully and maliciously setting fire.

Sec. 77. (1) A person who uses, arranges, places, devises, or distributes an inflammable, combustible, or explosive material, liquid, or substance or any device in or near a building or property described in section 72, 73, 74, or 75 with intent to willfully and maliciously set fire to or burn the building or property or who aids, counsels, induces, persuades, or procures another to do so is guilty of a crime as follows:

(a) If the property intended to be burned is personal or real property, or both, with a combined value less than $200.00, 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 3 times the combined value of the property intended to be burned, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the combined value of the property intended to be burned, whichever is greater, or both imprisonment and a fine:

(*i*) The property intended to be burned is personal or real property, or both, with a combined value of $200.00 or more but less than $1,000.00.

(*ii*) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(c) 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 3 times the combined value of the property intended to be burned, whichever is greater, or both imprisonment and a fine:

(*i*) The property intended to be burned is personal or real property, or both, with a combined value of $1,000.00 or more but less than $20,000.00.

(*ii*) The person violates subdivision (b)(*i*) and has 1 or more prior convictions for violating or attempting to violate this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the combined value of the property intended to be burned, whichever is greater, or both imprisonment and a fine:

(*i*) The property is personal or real property, or both, with a combined value of $20,000.00 or more.

(*ii*) The person violates subdivision (c)(*i*) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for committing or attempting to commit an offense for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(2) The combined value of property intended to be burned in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property intended to be burned.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) The total value of property intended to be burned.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

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(d) The defendant's statement.

(4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1945, Act 260, Eff. Sept. 6, 1945;—CL 1948, 750.77;—Am. 1998, Act 312, Eff. Jan. 1, 1999.

750.78 Wilfully or negligently setting fire to woods, prairies or grounds.

Sec. 78. Wilfully setting fire to woods, etc.—Any person who shall wilfully or negligently set fire to any woods, prairies or grounds, not his property, or shall wilfully permit any fire to pass from his own woods, prairies or grounds, to the injury or destruction of the property of any other person, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.78.

Former law: See section 1 of Ch. 45 of R.S. 1846, being CL 1857, § 5924; CL 1871, § 7790; How., § 9402; CL 1897, § 11653; CL 1915, § 15424; and CL 1929, § 16942.

750.79 Clearing of land and disposing of refuse in townships.

Sec. 79. Clearing land by fire and disposing of refuse materials in townships—Whenever in pursuance of the authority given by law, any township board shall, by order, rule or regulation, designate a period during which it shall be unlawful to set forest fires or fires for the purpose of clearing lands, and disposing by burning of refuse material and waste matter within its respective jurisdiction or any part thereof, any person who shall be found guilty of violating the orders, rules and regulations of such board by setting any such fire in such township contrary to the provisions thereof shall be guilty of a felony: Provided, That any person desiring to dispose of refuse material by burning the same during the time prohibited by the board of such township, may do so after first procuring permission in writing, signed by the supervisor and township clerk, or by a majority of such township board, and the said supervisor and township clerk, or a majority of the said board are hereby authorized to grant such permission in their discretion, under such conditions as they may prescribe, upon application made in writing for such purpose: Provided further, That said board is hereby authorized at any time to repeal by resolution any order, rule or regulation herein mentioned.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.79.

Former law: See section 5 of Ch. 45 of R.S. 1846, being CL 1897, § 11657; CL 1915, § 15428; CL 1929, § 16946; and Act 189 of 1897.

750.80 Setting fire to mines and mining material.

Sec. 80. Setting fire to mines and mining materials—Any person who shall wilfully and maliciously burn or set fire to or cause to be burned or set fire to any wood, timber, or other material in any part of a mine under ground, or shall wilfully and maliciously set fire to or burn any shaft house or other structure or materials built or placed over, or upon a shaft, adit, level or other opening into any mine, such mine being then in use or operation, shall be guilty of felony, and be punishable by imprisonment in the state prison for life or for any term of years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.80.

Former law: See section 1 of Act 4 of 1889, being How., § 9209c; CL 1897, § 11652; CL 1915, § 15423; and CL 1929, § 16941.

CHAPTER XI
ASSAULTS

750.81 Assault and battery; penalties; applicability to individual using necessary reasonable physical force in compliance with § 380.1312 of the revised school code; "dating relationship" defined.

Sec. 81. (1) Except as otherwise provided in this section, a person who assaults or assaults and batters an individual, if no other punishment is prescribed by law, 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.

(2) Except as provided in subsection (3) or (4), an individual who assaults or assaults and batters his or her spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, 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) An individual who commits an assault or an assault and battery in violation of subsection (2), and who has previously been convicted of assaulting or assaulting and battering his or her spouse or former spouse, an

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individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, under any of the following, may be punished by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both:

(a) This section or an ordinance of a political subdivision of this state substantially corresponding to this section.

(b) Section 81a, 82, 83, 84, or 86.

(c) A law of another state or an ordinance of a political subdivision of another state substantially corresponding to this section or section 81a, 82, 83, 84, or 86.

(4) An individual who commits an assault or an assault and battery in violation of subsection (2), and who has 2 or more previous convictions for assaulting or assaulting and battering his or her spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, under any of the following, is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,500.00, or both:

(a) This section or an ordinance of a political subdivision of this state substantially corresponding to this section.

(b) Section 81a, 82, 83, 84, or 86.

(c) A law of another state or an ordinance of a political subdivision of another state substantially corresponding to this section or section 81a, 82, 83, 84, or 86.

(5) This section does not apply to an individual using necessary reasonable physical force in compliance with section 1312 of the revised school code, 1976 PA 451, MCL 380.1312.

(6) As used in this section, "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.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 75081;—Am. 1994, Act 64, Eff. July 1, 1994;—Am. 1999, Act 270, Eff. July 1, 2000;—Am. 2000, Act 462, Imd. Eff. Jan. 10, 2001;—Am. 2001, Act 189, Eff. Apr. 1, 2002;—Am. 2001, Act 190, Eff. Apr. 1, 2002.

Former law: See section 29 of Ch. 153 of R.S. 1846, being CL 1857, § 5739; CL 1871, § 7538; How., § 9103; CL 1897, § 11498; CL 1915, § 15220; CL 1929, § 16736; Act 167 of 1879; and Act 54 of 1929.

750.81a Assault; infliction of serious or aggravated injury; "dating relationship" defined.

Sec. 81a. (1) Except as otherwise provided in this section, a person who assaults an individual without a weapon and inflicts serious or aggravated injury upon that individual without intending to commit murder or to inflict great bodily harm less than murder 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.

(2) Except as provided in subsection (3), an individual who assaults his or her spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of the same household without a weapon and inflicts serious or aggravated injury upon that individual without intending to commit murder or to inflict great bodily harm less than murder 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) An individual who commits an assault and battery in violation of subsection (2), and who has 1 or more previous convictions for assaulting or assaulting and battering his or her spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of the same household, in violation of any of the following, is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,500.00, or both:

(a) This section or an ordinance of a political subdivision of this state substantially corresponding to this section.

(b) Section 81, 82, 83, 84, or 86.

(c) A law of another state or an ordinance of a political subdivision of another state substantially corresponding to this section or section 81, 82, 83, 84, or 86.

(4) As used in this section, "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.

History: Add. 1939, Act 237, Eff. Sept. 29, 1939;—CL 1948, 750.81a;—Am. 1994, Act 65, Eff. July 1, 1994;—Am. 1999, Act 270, Eff. July 1, 2000;—Am. 2001, Act 190, Eff. Apr. 1, 2002.

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750.81b Enhanced sentence; provisions.

Sec. 81b. The following provisions apply in any case in which the prosecuting attorney seeks an enhanced sentence under section 81(3) or (4) or 81a(3):

(a) The charging document or amended charging document shall include a notice provision that states that the prosecuting attorney intends to seek an enhanced sentence under section 81(3) or (4) or 81a(3) and lists the prior conviction or convictions that will be relied upon for that purpose. The notice shall be separate and distinct from the language charging the current offense, and shall not be read or otherwise disclosed to the jury if the case proceeds to trial before a jury.

(b) The defendant's prior conviction or convictions shall be established at sentencing. The existence of a prior conviction and the factual circumstances establishing the required relationship between the defendant and the victim of the prior assault or assault and battery may be established by any evidence that is relevant for that purpose, including, but not limited to, 1 or more of the following:

(*i*) A copy of a judgment of conviction.

(*ii*) A transcript of a prior trial, plea-taking, or sentencing proceeding.

(*iii*) Information contained in a presentence report.

(*iv*) A statement by the defendant.

(c) The defendant or his or her attorney shall be given an opportunity to deny, explain, or refute any evidence or information relating to the defendant's prior conviction or convictions before the sentence is imposed, and shall be permitted to present evidence relevant for that purpose unless the court determines and states upon the record that the challenged evidence or information will not be considered as a basis for imposing an enhanced sentence under section 81(3) or (4) or 81a(3).

(d) A prior conviction may be considered as a basis for imposing an enhanced sentence under section 81(3) or (4) or 81a(3) if the court finds the existence of both of the following by a preponderance of the evidence:

(*i*) The prior conviction.

(*ii*) 1 or more of the required relationships between the defendant and the victim of the prior assault or assault and battery.

History: Add. 1994, Act 65, Eff. July 1, 1994.

750.81c Threats or assault against employee of family independence agency; violation; penalty; other conviction; "serious impairment of body function" defined.

Sec. 81c. (1) A person who communicates to any person a threat that he or she will physically harm an individual who is an employee of the family independence agency and who does so because of the individual's status as an employee of that agency 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.

(2) Except as provided in subsection (3), a person who assaults or assaults and batters an individual while the individual is performing his or her duties as an employee of the family independence agency or because of the individual's status as an employee of that agency and causes the individual any physical injury is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $1,000.00, or both.

(3) A person who assaults or assaults and batters an individual while the individual is performing his or her duties as an employee of the family independence agency or because of the individual's status as an employee of that agency and causes the individual serious impairment of body function is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than $1,000.00 or more than $5,000.00, or both.

(4) A conviction or sentence imposed for a violation of this section does not preclude a conviction or sentence for a violation of any other applicable law.

(5) As used in this section, "serious impairment of body function" means that phrase as defined in section 625(5) of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

History: Add. 2001, Act 22, Eff. Sept. 1, 2001.

Popular name: Lisa's Law

Popular name: Lisa's Act

750.81d Assault, battering, resisting, obstructing, opposing person performing duty; felony; penalty; other violations; consecutive terms; definitions.

Sec. 81d. (1) Except as provided in subsections (2), (3), and (4), an individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

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(2) An individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties causing a bodily injury requiring medical attention or medical care to that person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

(3) An individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties causing a serious impairment of a body function of that 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.

(4) An individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties causing the death of that person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both.

(5) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

(6) A term of imprisonment imposed for a violation of this section may run consecutively to any term of imprisonment imposed for another violation arising from the same transaction.

(7) As used in this section:

(a) "Obstruct" includes the use or threatened use of physical interference or force or a knowing failure to comply with a lawful command.

(b) "Person" means any of the following:

(*i*) A police officer of this state or of a political subdivision of this state including, but not limited to, a motor carrier officer or capitol security officer of the department of state police.

(*ii*) A police officer of a junior college, college, or university who is authorized by the governing board of that junior college, college, or university to enforce state law and the rules and ordinances of that junior college, college, or university.

(*iii*) A conservation officer of the department of natural resources or the department of environmental quality.

(*iv*) A conservation officer of the United States department of the interior.

(*v*) A sheriff or deputy sheriff.

(*vi*) A constable.

(*vii*) A peace officer of a duly authorized police agency of the United States, including, but not limited to, an agent of the secret service or department of justice.

(*viii*) A firefighter.

(*ix*) Any emergency medical service personnel described in section 20950 of the public health code, 1978 PA 368, MCL 333.20950.

(c) "Serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

History: Add. 2002, Act 266, Eff. July 15, 2002.

750.82 Felonious assault; violation of subsection (1) in weapon free school zone; definitions.

Sec. 82. (1) Except as provided in subsection (2), a person who assaults another person with a gun, revolver, pistol, knife, iron bar, club, brass knuckles, or other dangerous weapon without intending to commit murder or to inflict great bodily harm less than murder 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.

(2) A person who violates subsection (1) in a weapon free school zone is guilty of a felony punishable by 1 or more of the following:

(a) Imprisonment for not more than 4 years.

(b) Community service for not more than 150 hours.

(c) A fine of not more than $6,000.00.

(3) As used in this section:

(a) "School" means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12.

(b) "School property" means a building, playing field, or property used for school purposes to impart instruction to children or used for functions and events sponsored by a school, except a building used primarily for adult education or college extension courses.

(c) "Weapon free school zone" means school property and a vehicle used by a school to transport students to or from school property.

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History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.82;—Am. 1994, Act 158, Eff. Aug. 15, 1994.

Former law: See section 1 of Act 232 of 1913, being CL 1915, § 15228; CL 1929, § 16747; and Act 241 of 1915.

750.83 Assault with intent to commit murder.

Sec. 83. Assault with intent to commit murder—Any person who shall assault another with intent to commit the crime of murder, shall be guilty of a felony, punishable by imprisonment in the state prison for life or any number of years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.83.

Former law: See section 14 of Ch. 153 of R.S. 1846, being CL 1857, § 5724; CL 1871, § 7523; How., § 9088; CL 1897, § 11483; CL 1915, § 15205; and CL 1929, § 16721.

750.84 Assault with intent to do great bodily harm less than murder.

Sec. 84. Assault with intent to do great bodily harm less than murder—Any person who shall assault another with intent to do great bodily harm, less than the crime of murder, shall be guilty of a felony punishable by imprisonment in the state prison not more than 10 years, or by fine of not more than 5,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.84.

Former law: See section 1 of Act 71 of 1883, being How., § 9122a; CL 1897, § 11505; CL 1915, § 15227; and CL 1929, § 16746.

750.85 Repealed. 1974, Act 266, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to assault with intent to commit rape, sodomy, or gross indecency.

750.86 Assault with intent to maim.

Sec. 86. Assault with intent to maim—Any person who shall assault another with intent to maim or disfigure his person by cutting out or maiming the tongue, putting out or destroying an eye, cutting or tearing off an ear, cutting or slitting or mutilating the nose or lips or cutting off or disabling a limb, organ or member, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by fine of not more than 5,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.86.

Former law: See sections 11 and 12 of Ch. 153 of R.S. 1846, being CL 1857, §§ 5721 and 5722; CL 1871, §§ 7520 and 7521; How., §§ 9085 and 9086; CL 1897, §§ 11480 and 11481; CL 1915, §§ 15202 and 15203; and CL 1929, §§ 16718 and 16719.

750.87 Assault with intent to commit felony not otherwise punished.

Sec. 87. Assault with intent to commit felony, not otherwise punished—Any person who shall assault another, with intent to commit any burglary, or any other felony, the punishment of which assault is not otherwise in this act prescribed, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by fine of not more than 5,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.87.

Former law: See section 28 of Ch. 153 of R.S. 1846, being CL 1857, § 5738; CL 1871, § 7537; How., § 9102; CL 1897, § 11497; CL 1915, § 15219; and CL 1929, § 16735.

750.88 Assault with intent to rob and steal; unarmed.

Sec. 88. Assault with intent to rob and steal being unarmed—Any person, not being armed with a dangerous weapon, who shall assault another with force and violence, and with intent to rob and steal, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 15 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.88.

Former law: See section 18 of Ch. 153 of R.S. 1846, being CL 1857, § 5728; CL 1871, § 7527; How., § 9092; CL 1897, § 11487; CL 1915, § 15209; and CL 1929, § 16725.

750.89 Assault with intent to rob and steal; armed.

Sec. 89. Assault with intent to rob and steal being armed—Any person, being armed with a dangerous weapon, or any article used or fashioned in a manner to lead a person so assaulted reasonably to believe it to be a dangerous weapon, who shall assault another with intent to rob and steal shall be guilty of a felony, punishable by imprisonment in the state prison for life, or for any term of years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1939, Act 94, Eff. Sept. 29, 1939;—CL 1948, 750.89.

Former law: See section 16 of Ch. 153 of R.S. 1846, being CL 1857, § 5726; CL 1871, § 7525; How., § 9090; CL 1897, § 11485; CL 1915, § 15207; CL 1929, § 16723; Act 143 of 1869; and Act 374 of 1927.

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750.90 Sexual intercourse under pretext of medical treatment.

Sec. 90. Sexual intercourse under pretext of medical treatment—Any person who shall undertake to medically treat any female person, and while so treating her, shall represent to such female that it is, or will be, necessary or beneficial to her health that she have sexual intercourse with a man, and shall thereby induce her to have carnal sexual intercourse with any man, and any man, not being the husband of such female, who shall have sexual intercourse with her by reason of such representation, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.90.

Former law: See section 1 of Act 172 of 1883, being How., § 9314e; CL 1897, § 11721; CL 1915, § 15505; and CL 1929, § 16847.

750.90a Conduct proscribed under §§ 750.81 to 750.89 as felony; intent.

Sec. 90a. If a person intentionally commits conduct proscribed under sections 81 to 89 against a pregnant individual, the person is guilty of a felony punishable by imprisonment for life or any term of years if all of the following apply:

(a) The person intended to cause a miscarriage or stillbirth by that individual or death or great bodily harm to the embryo or fetus, or acted in wanton or willful disregard of the likelihood that the natural tendency of the person's conduct is to cause a miscarriage or stillbirth or death or great bodily harm to the embryo or fetus.

(b) The person's conduct resulted in a miscarriage or stillbirth by that individual or death to the embryo or fetus.

History: Add. 1998, Act 238, Eff. Jan. 1, 1999;—Am. 2001, Act 1, Eff. June 1, 2001.

750.90b Conduct proscribed under §§ 750.81 to 750.89 as crime; intent.

Sec. 90b. A person who intentionally commits conduct proscribed under sections 81 to 89 against a pregnant individual is guilty of a crime as follows:

(a) If the conduct results in a miscarriage or stillbirth by that individual, or death to the embryo or fetus, a felony punishable by imprisonment for not more than 15 years or a fine of not more than $7,500.00, or both.

(b) If the conduct results in great bodily harm to the embryo or fetus, a felony punishable by imprisonment for not more than 10 years or a fine of not more than $5,000.00, or both.

(c) If the conduct results in serious or aggravated physical injury to the embryo or fetus, a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(d) If the conduct results in physical injury to the embryo or fetus, a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

History: Add. 1998, Act 238, Eff. Jan. 1, 1999;—Am. 2001, Act 1, Eff. June 1, 2001.

750.90c Gross negligence against pregnant individual as crime.

Sec. 90c. A person who commits a grossly negligent act against a pregnant individual is guilty of a crime as follows:

(a) If the act results in a miscarriage or stillbirth by that individual or death to the embryo or fetus, a felony punishable by imprisonment for not more than 15 years or a fine of not more than $7,500.00, or both.

(b) If the act results in great bodily harm to the embryo or fetus, 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 act results in serious or aggravated physical injury to the embryo or fetus, a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $500.00, or both.

(d) If the act results in physical injury to the embryo or fetus, a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

History: Add. 1998, Act 238, Eff. Jan. 1, 1999;—Am. 2001, Act 1, Eff. June 1, 2001;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

750.90d Conduct proscribed under § 257.625(1) or (3) involving accident with pregnant individual as felony; penalties.

Sec. 90d. A person who engages in conduct proscribed under section 625(1) or (3) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, that involves an accident with a pregnant individual is guilty of a felony punishable as follows:

(a) If the person's conduct causes a miscarriage or stillbirth by that individual or death to the embryo or fetus, imprisonment for not more than 15 years or a fine of not less than $2,500.00 or more than $10,000.00, or both.

(b) If the person's conduct causes great bodily harm or serious or aggravated injury to the embryo or fetus, imprisonment for not more than 5 years or a fine of not less than $1,000.00 or more than $5,000.00, or both.

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History: Add. 1998, Act 238, Eff. Jan. 1, 1999;—Am. 2001, Act 1, Eff. June 1, 2001.

750.90e Conduct as proximate cause of accident involving pregnant individual as misdemeanor; penalty.

Sec. 90e. If a person operates a motor vehicle in a careless or reckless manner, but not willfully or wantonly, that is the proximate cause of an accident involving a pregnant individual and the accident results in a miscarriage or stillbirth by that individual or death to the embryo or fetus, the person is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

History: Add. 1998, Act 238, Eff. Jan. 1, 1999;—Am. 2001, Act 1, Eff. June 1, 2001.

750.90f Applicability of §§ 750.90 to 750.90e; "physician or other licensed medical professional" defined.

Sec. 90f. (1) Sections 90a to 90e do not apply to any of the following:

(a) An act committed by the pregnant individual.

(b) A medical procedure performed by a physician or other licensed medical professional within the scope of his or her practice and with the pregnant individual's consent or the consent of an individual who may lawfully provide consent on her behalf or without consent as necessitated by a medical emergency.

(c) The lawful dispensation, administration, or prescription of medication.

(2) This section does not prohibit a prosecution under any other applicable law.

(3) As used in this section, "physician or other licensed medical professional" means a person licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

History: Add. 1998, Act 238, Eff. Jan. 1, 1999.

750.90g "Infant protection act" as short title of section; legislative findings; prohibited acts; violation as felony; penalty; exceptions; definitions.

Sec. 90g. (1) This section shall be known and may be cited as the "infant protection act".

(2) The legislature finds all of the following:

(a) That the constitution and laws of this nation and this state hold that a live infant completely expelled from his or her mother's body is recognized as a person with constitutional and legal rights and protection.

(b) That a live infant partially outside his or her mother is neither a fetus nor potential life, but is a person.

(c) That the United States supreme court decisions defining a right to terminate pregnancy do not extend to the killing of a live infant that has begun to emerge from his or her mother's body.

(d) That the state has a compelling interest in protecting the life of a live infant by determining that a live infant is a person deserving of legal protection at any point after any part of the live infant exists outside of the mother's body.

(3) Except as provided in subsections (4) and (5), a person who intentionally performs a procedure or takes any action upon a live infant with the intent to cause the death of the live infant is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than $50,000.00, or both.

(4) It is not a violation of subsection (3) if a physician takes measures at any point after a live infant is partially outside of the mother's body, that in the physician's reasonable medical judgment are necessary to save the life of the mother and if every reasonable precaution is also taken to save the live infant's life.

(5) Subsection (3) does not apply to an action taken by the mother. However, this subsection does not exempt the mother from any other provision of law.

(6) As used in this section:

(a) "Live infant" means a human fetus at any point after any part of the fetus is known to exist outside of the mother's body and has 1 or more of the following:

(*i*) A detectable heartbeat.

(*ii*) Evidence of spontaneous movement.

(*iii*) Evidence of breathing.

(b) "Outside of the mother's body" means beyond the outer abdominal wall or beyond the plane of the vaginal introitus.

(c) "Part of the fetus" means any portion of the body of a human fetus that has not been severed from the fetus, but not including the umbilical cord or placenta.

(d) "Physician" means an individual licensed to engage in the practice of allopathic medicine or the practice of osteopathic medicine and surgery under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

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History: Add. 1999, Act 107, Eff. Mar. 10, 2000.

Popular name: Infant Protection Act

CHAPTER XII
ATTEMPTS

750.91 Attempt to murder.

Sec. 91. Attempt to murder by poisoning, etc.—Any person who shall attempt to commit the crime of murder by poisoning, drowning, or strangling another person, or by any means not constituting the crime of assault with intent to murder, shall be guilty of a felony, punishable by imprisonment in the state prison for life or any term of years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.91.

Former law: See section 13 of Ch. 153 of R.S. 1846, being CL 1857, § 5723; CL 1871, § 7522; How., § 9087; CL 1897, § 11482; CL 1915, § 15204; CL 1929, § 16720; and Act 147 of 1875.

750.92 Attempt to commit crime.

Sec. 92. Attempt to commit crime—Any person who shall attempt to commit an offense prohibited by law, and in such attempt shall do any act towards the commission of such offense, but shall fail in the perpetration, or shall be intercepted or prevented in the execution of the same, when no express provision is made by law for the punishment of such attempt, shall be punished as follows:

1. If the offense attempted to be committed is such as is punishable with death, the person convicted of such attempt shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years;

2. If the offense so attempted to be committed is punishable by imprisonment in the state prison for life, or for 5 years or more, the person convicted of such attempt shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or in the county jail not more than 1 year;

3. If the offense so attempted to be committed is punishable by imprisonment in the state prison for a term less than 5 years, or imprisonment in the county jail or by fine, the offender convicted of such attempt shall be guilty of a misdemeanor, punishable by imprisonment in the state prison or reformatory not more than 2 years or in any county jail not more than 1 year or by a fine not to exceed 1,000 dollars; but in no case shall the imprisonment exceed 1/2 of the greatest punishment which might have been inflicted if the offense so attempted had been committed.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.92.

Former law: See section 14 of Chapter IX of Act 175 of 1927, being CL 1929, § 17342.

CHAPTER XIII
BANK, DEPOSIT AND TRUST COMPANIES

750.93 Bank bonds in state treasury, removing or destroying.

Sec. 93. Removing or destroying bank bonds in state treasury—Any person who shall take from the state treasury, contrary to the provisions of law, or shall deface or destroy any of the bonds therein deposited by any of the banks of this state, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.93.

750.94 Bank bills or notes; issuing, non-compliance with requirements.

Sec. 94. Issuing bank bills, etc., without previous compliance with requirements of law—Any officer or stockholder of any bank or banking association, or any other person for such bank or banking association, who shall sign, issue, or knowingly put in circulation any bill or note of any such bank or banking association before the requisite amount of capital stock shall have been paid in, or before the president and directors thereof shall have fully complied with all the provisions of law requiring any other act or acts to be done before the issuing of any notes or bills, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by fine not more than 5,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.94.

Former law: See section 31 of Ch. 154 of R.S. 1846, being CL 1857, § 5775; CL 1871, § 7582; How., § 9153; CL 1897, § 11567; CL 1915, § 15312; and CL 1929, § 16908.

750.95 Spurious bank notes; issuing or circulating.

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Sec. 95. Issuing or circulating spurious bank notes—Any person who shall, with intent to defraud, sign, issue or put in circulation any note or bill, purporting to be a bill or note of any bank, when no such bank exists, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by fine of not more than 5,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.95.

Former law: See section 32 of Ch. 154 of R.S. 1846, being CL 1857, § 5776; CL 1871, § 7583; How., § 9154; CL 1897, § 11568; CL 1915, § 15313; and CL 1929, § 16909.

750.95a Person printing checks for financial institution; printing on checks month and year account opened; exceptions; violation as misdemeanor; penalty; civil liability; authorization to furnish information; definitions.

Sec. 95a. (1) Except as provided in subsection (2), a person that is requested by a financial institution to print checks for an account maintained by a person at the financial institution shall obtain from the financial institution the month and year in which the account was opened, and the person shall print on the checks for that account the month and year furnished by the financial institution.

(2) A person shall not be required to comply with subsection (1) with regard to checks printed for an account if the person is informed by the financial institution for which the checks are to be printed that the checks are to be used for any of the following:

(a) An account opened before July 1, 1985.

(b) An account maintained by a corporation, partnership, association, or trust, or by an individual or individuals who use the account primarily for a business purpose or who indicate to the financial institution, at the time the account is opened, that the account is intended to be used primarily for a business purpose.

(c) An account maintained by a person who, at the time the account was opened, had maintained another deposit with the same financial institution for a period of 1 year or longer.

(d) Temporary checks to be furnished by the financial institution to a customer at the time an account is opened.

(3) A person that knowingly, wilfully, and intentionally violates this section is guilty of a misdemeanor, punishable by a fine of not more than $100.00.

(4) A person that violates this section shall not be civilly liable for damages to any other person arising from the violation.

(5) A financial institution is authorized to furnish to a person who prints checks for the financial institution the date and year an account was opened and such information as shall be necessary for the person to determine whether the person is required to comply with subsection (1).

(6) As used in this section:

(a) "Check" means a check, draft, or other instrument that is capable of becoming a negotiable instrument evidencing a written order to a financial institution to pay the stated amount of money from an account maintained with the financial institution.

(b) "Deposit" means an insured account in a bank, savings and loan association, credit union, or other institution the accounts of which are insured by an agency of the federal government.

(c) "Financial institution" means a bank, savings and loan association, credit union, or other institution that is authorized to maintain demand accounts or other accounts where payment is made by a check.

(d) "Person" means an individual, corporation, partnership, association, business trust, or other legal entity.

History: Add. 1984, Act 275, Eff. July 1, 1985.

750.96 Bank property; fraudulent disposal.

Sec. 96. Fraudulent disposal of property of bank by officers, etc.—Any officer or agent of any bank, knowing such bank to be insolvent, or, in contemplation of the insolvency of such bank, or any assignee of the property and effects of any insolvent bank who shall sell, or in any way dispose of or remove, any of the money, property or effects of such bank, with intent to defraud, delay or hinder any creditor thereof in the collection of any claim or demand against such bank, every such officer or agent, and all persons who shall knowingly aid or assist in any such disposition or removal, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.96.

Former law: See section 33 of Ch. 154 of R.S. 1846, being CL 1857, § 5777; CL 1871, § 7584; How., § 9155; CL 1897, § 11569; CL 1915, § 15314; and CL 1929, § 16910.

750.97 Financial condition of bank; derogatory statement.

Sec. 97. Derogatory statement regarding financial condition of bank—Any person who shall wilfully and maliciously make, circulate or transmit to another or others any statement, rumor or suggestion, written,

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printed or by word of mouth, which is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any incorporated bank, savings bank, banking institution or trust company doing business in this state, or who shall counsel, aid, procure or induce another to start, transmit or circulate any such statement or rumor, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.97.

Former law: See section 1 of Act 273 of 1909, being CL 1915, § 8043; and CL 1929, § 12060.

750.98 Private banks.

Sec. 98. Private banks—On and after the effective date of this act, it shall be unlawful for any individual person, or unincorporated association of individual persons, to engage in the business of banking, as defined in Act No. 66 of the Public Acts of 1929, being sections 11898 to 11970 inclusive of the Compiled Laws of 1929, and other laws of this state relating to banks and banking: Provided, That this section shall not apply to any individual person or unincorporated association of individual persons engaged in the business of banking at the time of the passage of this act.

From and after the passage of this act, no person or association of persons, not incorporated under the banking laws of this state and not now engaged in the private banking business, shall open up or attempt to operate any private bank, and any such operation or attempt shall be a violation of this section, and the persons so operating or attempting to operate shall be guilty of a felony: Provided, That nothing in this section contained shall be construed to prohibit the surviving partner or partners of a copartnership from continuing the operation of any private bank operated by such copartnership at the time this act shall take effect.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.98.

Compiler's note: Act 66 of 1929, referred to in this section, was repealed by Act 341 of 1937.

Former law: See sections 1 and 2 of Act 284 of 1925, being CL 1929, §§ 12048 and 12049.

750.99 Certifying checks; insufficient funds.

Sec. 99. Certifying checks without amount thereof actually standing to credit of drawer—It shall not be lawful for any officer, clerk, agent or employe of a bank to certify a check unless the amount thereof actually stands to the credit of the drawer upon the books of the bank, or to resort to any device, or receive any fictitious obligations, direct or collateral, in order to evade the provisions of this prohibition; and any officer, clerk, agent or employe who shall attempt any such evasion shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.99.

Former law: See section 51 of Act 66 of 1929, being CL 1929, § 11948.

750.100 Bank insolvency; receiving deposits.

Sec. 100. Receiving deposits, etc., when bank is insolvent—The directors and officers of any commercial and/or savings bank, industrial bank or trust company who shall fraudulently and with intent to cheat and defraud any person, receive any deposit, money, or property or issue any certificate of investment and receive payment therefor, knowing, or having good reason to believe that such bank or company is insolvent, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or by fine of not more than 2,500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.100.

Former law: See section 14 of Act 296 of 1917, being CL 1929, § 11986; and section 36 of Act 66 of 1929, being CL 1929, § 11933.

750.101 Financial institutions act; violation.

Sec. 101. Any officer, clerk, agent or employe of a bank, industrial bank, trust company, safe and collateral deposit company, or any other financial institution governed by the provisions of the Michigan financial institutions act, who shall knowingly aid or assist in a violation of any of the provisions of "the Michigan financial institutions act," or acts and parts of acts amendatory thereof, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or by a fine of not more than 2,500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1937, Act 172, Imd. Eff. July 9, 1937;—CL 1948, 750.101.

Former law: See section 19 of Act 296 of 1917, being CL 1929, § 1191; and section 50 of Act 66 of 1929, being CL 1929, § 11947.

CHAPTER XIV
BLASPHEMY

750.102 Blasphemy; punishment.

Sec. 102. Punishment—Any person who shall wilfully blaspheme the holy name of God, by cursing or contumeliously reproaching God, shall be guilty of a misdemeanor.

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History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.102.

Former law: See section 17 of Ch. 158 of R.S. 1846, being CL 1857, § 5872; CL 1871, § 7707; How., § 9293; CL 1897, § 11706; CL 1915, § 15480; and CL 1929, § 16832.

750.103 Cursing and swearing.

Sec. 103. Cursing and swearing—Any person who has arrived at the age of discretion, who shall profanely curse or damn or swear by the name of God, Jesus Christ or the Holy Ghost, shall be guilty of a misdemeanor. No such prosecution shall be sustained unless it shall be commenced within 5 days after the commission of such offense.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.103.

Former law: See section 18 of Ch. 158 of R.S. 1846, being CL 1857, § 5873; CL 1871, § 7708; How., § 9294; CL 1897, § 11707; CL 1915, § 15481; and CL 1929, § 16833.

CHAPTER XV
BOATS AND NAVIGATION

750.104 Fitting out vessel with intent to destroy.

Sec. 104. Fitting out vessel with intent to destroy the same—Any person who shall lade, equip or fit out, or assist in lading, equipping or fitting out any ship, boat or vessel, with intent that the same shall be cast away, burnt, sunk or otherwise destroyed, to injure or defraud any owner or insurer of such ship, boat or vessel, or of any property laden on board the same, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.104.

Former law: See section 42 of Ch. 154 of R.S. 1846, being CL 1857, § 5786; CL 1871, § 7593; How., § 9164; CL 1897, § 11578; CL 1915, § 15323; and CL 1929, § 16919.

750.105 False invoice of cargo.

Sec. 105. Making false invoice of cargo—The owner of any ship, boat or vessel, or of any property laden, or pretended to be laden on board the same, and any other person concerned in the lading or fitting out of any such ship, boat or vessel, who shall make out or exhibit, or cause to be made out or exhibited, any false or fraudulent invoice, bill of lading, bill of parcels or other false estimates of any goods or property laden or pretended to be laden on board such ship, boat or vessel, with intent to injure or defraud any insurer of such ship, boat or vessel or property, or of any part thereof, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.105.

Former law: See section 43 of Ch. 154 of R.S. 1846, being CL 1857, § 5787; CL 1871, § 7594; How., § 9165; CL 1897, § 11579; CL 1915, § 15324; and CL 1929, § 16920.

750.106 False protest; making or procuring.

Sec. 106. Making or procuring false protest—Any master, or other officer or mariner of any ship, boat or vessel, who shall make or cause to be made, or shall swear to, any false affidavit or protest, and any owner or other person concerned in such ship, boat or vessel, or in the goods or property laden on board the same, who shall procure any such false affidavit or protest to be made, or who shall exhibit the same, with intent to injure, deceive or defraud any insurer of such ship, boat or vessel, or of the goods or property laden on board the same, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.106.

Former law: See section 44 of Ch. 154 of R.S. 1846, being CL 1857, § 5788; CL 1871, § 7595; How., § 9166; CL 1897, § 11580; CL 1915, § 15325; and CL 1929, § 16921.

750.107 Moored boat; breaking of lock or chain.

Sec. 107. Breaking lock, etc., of boat moored in lake, etc.—Any person or persons who shall wilfully and maliciously break any lock or chain fastened to any ship, boat or vessel, moored in any lake, river or watercourse of this state, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.107.

Former law: See section 1 of Act 166 of 1869, being CL 1871, § 7625; How., § 9198; CL 1897, § 11600; CL 1915, § 15355; and CL 1929, § 16996.

750.108 Moored boat; removing.

Sec. 108. Removing boat from fastenings, etc.—Any person who shall wilfully remove any ship, boat or vessel from their fastenings moored upon any lake, river, or watercourse in this state, without the consent of the owner, or who shall maliciously loose any ship, boat or vessel fastened by lock, chains or other fastening

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to the bank or shore of any lake, river or watercourse, and suffer the same to float away without the consent of the owner or person having in charge said ship, boat or vessel, or who shall rent or hire any such ship, boat or vessel, and shall without any cause leave such ship, boat or vessel, and abandon the same without giving the owner or owners, or person having charge thereof, notice of such abandonment, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.108.

Former law: See section 2 of Act 166 of 1869, being CL 1871, § 7626; How., § 9199; CL 1897, § 11601; CL 1915, § 15356; CL 1929, § 16997; and Act 56 of 1885.

750.109 Mooring vessel to buoy or beacon.

Sec. 109. Mooring vessel to buoy or beacon—Any person mooring any ship, boat or vessel to any of the buoys or beacons placed in any of the waters of the state, by the authority of the United States, or in any manner hanging on with a boat or vessel to any such buoy or beacon, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.109.

Former law: See section 1 of Act 5 of 1869, being CL 1871, § 7615; How., § 9196; CL 1897, § 11638; CL 1915, § 15404; and CL 1929, § 16998.

750.109a Unauthorized possession; penalty.

Sec. 109a. Any person who, wilfully and without authority, takes possession of or uses any vessel, as defined in Act No. 245 of the Public Acts of 1959, being sections 281.651 to 281.669 of the Compiled Laws of 1948, and any person who wilfully and without authority assists in or is a party to such taking possession of or use of a vessel belonging to another, is guilty of a misdemeanor.

History: Add. 1961, Act 217, Eff. Sept. 8, 1961.

CHAPTER XVI
BREAKING AND ENTERING

750.110 Breaking and entering.

Sec. 110. A person who breaks and enters, with intent to commit a felony or a larceny therein, a tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, structure, boat, ship, or railroad car is guilty of a felony, punishable by imprisonment for not more than 10 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.110;—Am. 1964, Act 133, Eff. Aug. 28, 1964;—Am. 1968, Act 324, Eff. Nov. 15, 1968;—Am. 1994, Act 270, Eff. Oct. 1, 1994.

Former law: See section 1 of Act 345 of 1925, being CL 1929, § 16948; and Act 13 of 1929.

750.110a Definitions; home invasion; first degree; second degree; third degree; penalties.

Sec. 110a. (1) As used in this section:

(a) "Dwelling" means a structure or shelter that is used permanently or temporarily as a place of abode, including an appurtenant structure attached to that structure or shelter.

(b) "Dangerous weapon" means 1 or more of the following:

(*i*) A loaded or unloaded firearm, whether operable or inoperable.

(*ii*) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(*iii*) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(*iv*) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (*i*) to (*iii*).

(c) "Without permission" means without having obtained permission to enter from the owner or lessee of the dwelling or from any other person lawfully in possession or control of the dwelling.

(2) A person who breaks and enters a dwelling with intent to commit a felony, larceny, or assault in the dwelling, a person who enters a dwelling without permission with intent to commit a felony, larceny, or assault in the dwelling, or a person who breaks and enters a dwelling or enters a dwelling without permission and, at any time while he or she is entering, present in, or exiting the dwelling, commits a felony, larceny, or assault is guilty of home invasion in the first degree if at any time while the person is entering, present in, or exiting the dwelling either of the following circumstances exists:

(a) The person is armed with a dangerous weapon.

(b) Another person is lawfully present in the dwelling.

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(3) A person who breaks and enters a dwelling with intent to commit a felony, larceny, or assault in the dwelling, a person who enters a dwelling without permission with intent to commit a felony, larceny, or assault in the dwelling, or a person who breaks and enters a dwelling or enters a dwelling without permission and, at any time while he or she is entering, present in, or exiting the dwelling, commits a felony, larceny, or assault is guilty of home invasion in the second degree.

(4) A person is guilty of home invasion in the third degree if the person does either of the following:

(a) Breaks and enters a dwelling with intent to commit a misdemeanor in the dwelling, enters a dwelling without permission with intent to commit a misdemeanor in the dwelling, or breaks and enters a dwelling or enters a dwelling without permission and, at any time while he or she is entering, present in, or exiting the dwelling, commits a misdemeanor.

(b) Breaks and enters a dwelling or enters a dwelling without permission and, at any time while the person is entering, present in, or exiting the dwelling, violates any of the following ordered to protect a named person or persons:

(*i*) A probation term or condition.

(*ii*) A parole term or condition.

(*iii*) A personal protection order term or condition.

(*iv*) A bond or bail condition or any condition of pretrial release.

(5) Home invasion in the first degree is a felony punishable by imprisonment for not more than 20 years or a fine of not more than $5,000.00, or both.

(6) Home invasion in the second degree is a felony punishable by imprisonment for not more than 15 years or a fine of not more than $3,000.00, or both.

(7) Home invasion in the third degree is a felony punishable by imprisonment for not more than 5 years or a fine of not more than $2,000.00, or both.

(8) The court may order a term of imprisonment imposed for home invasion in the first degree to be served consecutively to any term of imprisonment imposed for any other criminal offense arising from the same transaction.

(9) Imposition of a penalty under this section does not bar imposition of a penalty under any other applicable law.

History: Add. 1994, Act 270, Eff. Oct. 1, 1994;—Am. 1999, Act 44, Eff. Oct. 1, 1999.

750.110b Dumping of garbage, oil, or rubbish from boats; penalty.

Sec. 110b. Any person who discharges, dumps, deposits or throws or causes or permits the discharging, dumping, depositing or throwing of any garbage, except that which has passed through a disposal unit of a type approved by the United States public health service, or oil or rubbish from a vessel or watercraft of 25 or more feet in length into a river or inland lake within this state, or within 3 miles of the shoreline of any part of the great lakes or connecting waters thereof within this state, is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 1 year or by a fine of not more than $1,000.00, or by both.

History: Add. 1964, Act 132, Eff. Jan. 1, 1966.

750.111 Entering without breaking.

Sec. 111. Any person who, without breaking, shall enter any dwelling, house, tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, boat, ship, railroad car or structure used or kept for public or private use, or any private apartment therein, with intent to commit a felony or any larceny therein, shall be guilty of a felony punishable by imprisonment in the state prison not more than 5 years, or fined not more than $2,500.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.111;—Am. 1964, Act 133, Eff. Aug. 28, 1964.

Former law: See section 2 of Act 345 of 1925, being CL 1929, § 16949; and Act 13 of 1929.

750.112 Burglary with explosives.

Sec. 112. Burglary with explosives—Any person who enters any building, and for the purpose of committing any crime therein, uses or attempts to use nitro-glycerine, dynamite, gunpowder or any other high explosive, shall be guilty of a felony, punishable by imprisonment in the state prison not less than 15 years nor more than 30 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.112.

Former law: See section 1 of Act 64 of 1907, being CL 1915, § 15338; and CL 1929, § 16951.

750.113 Coin or depository box; opening or attempt to open.

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Sec. 113. A person who maliciously and willfully, by and with the aid and use of any key, instrument, device, or explosive, blows or attempts to blow, or forces or attempts to force an entrance into any coin box, depository box, or other receptacle established and maintained for the convenience of the public, or of any person or persons, in making payment for any article of merchandise or service, wherein is contained any money or thing of value, or extracts or obtains, or attempts to extract or obtain, therefrom any such money or thing of value so deposited or contained therein, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.113;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 24 of 1925, being CL 1929, § 16953.

750.114 Breaking and entering; outside showcase or counter.

Sec. 114. A person who shall break and enter, or enter without breaking, at any time, any outside showcase or other outside enclosed counter used for the display of goods, wares, or merchandise, with intent to commit the crime of larceny, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.114;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 65 of 1911, being CL 1915, § 15339; CL 1929, § 16952; and Act 144 of 1929.

750.115 Breaking and entering or entering without breaking; buildings, tents, boats, railroad cars; entering public buildings when expressly denied.

Sec. 115. (1) Any person who breaks and enters or enters without breaking, any dwelling, house, tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, boat, ship, railroad car or structure used or kept for public or private use, or any private apartment therein, or any cottage, clubhouse, boat house, hunting or fishing lodge, garage or the out-buildings belonging thereto, any ice shanty with a value of $100.00 or more, or any other structure, whether occupied or unoccupied, without first obtaining permission to enter from the owner or occupant, agent, or person having immediate control thereof, is guilty of a misdemeanor.

(2) Subsection (1) does not apply to entering without breaking, any place which at the time of the entry was open to the public, unless the entry was expressly denied. Subsection (1) does not apply if the breaking and entering or entering without breaking was committed by a peace officer or an individual under the peace officer's direction in the lawful performance of his or her duties as a peace officer.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1947, Act 74, Eff. Oct. 11, 1947;—CL 1948, 750.115;—Am. 2000, Act 148, Imd. Eff. June 7, 2000.

Former law: See sections 1 and 2 of Act 181 of 1929, being CL 1929, §§ 16957 and 16958.

750.116 Burglar's tools; possession.

Sec. 116. Possession of burglar's tools—Any person who shall knowingly have in his possession any nitroglycerine, or other explosive, thermite, engine, machine, tool or implement, device, chemical or substance, adapted and designed for cutting or burning through, forcing or breaking open any building, room, vault, safe or other depository, in order to steal therefrom any money or other property, knowing the same to be adapted and designed for the purpose aforesaid, with intent to use or employ the same for the purpose aforesaid, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.116.

Former law: See section 53 of Ch. 154 of R.S. 1846, being CL 1871, § 7604; How., § 9175; CL 1897, § 11589; CL 1915, § 15334; CL 1929, § 16930; and Act 116 of 1867.

CHAPTER XVII
BRIBERY AND CORRUPTION

750.117 Public officer; bribery.

Sec. 117. Bribery of public officer—Any person who shall corruptly give, offer or promise to any public officer, agent, servant or employe, after the election or appointment of such public officer, agent, servant or employe and either before or after such public officer, agent, servant or employe shall have been qualified or shall take his seat, any gift, gratuity, money, property or other valuable thing, the intent or purpose of which is to influence the act, vote, opinion, decision or judgment of such public officer, agent, servant or employe, or his action on any matter, question, cause or proceeding, which may be pending or may by law be brought before him in his public capacity, or the purpose and intent of which is to influence any act or omission relating to any public duty of such officer, agent, servant or employe, shall be guilty of a felony.

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History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.117.

Former law: See section 7 of Ch. 156 of R.S. 1846, being CL 1857, § 5826; CL 1871, § 7659; How., § 9241; CL 1897, § 11311; CL 1915, § 14978; and CL 1929, § 16569.

750.118 Public officer; accepting bribe.

Sec. 118. Public officer accepting bribe—Any executive, legislative or judicial officer who shall corruptly accept any gift or gratuity, or any promise to make any gift, or to do any act beneficial to such officer, under an agreement, or with an understanding that his vote, opinion or judgment shall be given in any particular manner, or upon a particular side of any question, cause or proceeding, which is or may be by law brought before him in his official capacity, or that in such capacity, he shall make any particular nomination or appointment, shall forfeit his office, and be forever disqualified to hold any public office, trust or appointment under the constitution or laws of this state, and shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by fine of not more than 5,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.118.

Former law: See section 8 of Ch. 156 of R.S. 1846, being CL 1857, § 5827; CL 1871, § 7660; How., § 9242; CL 1897, § 11312; CL 1915, § 14979; and CL 1929, § 16570.

750.119 Corruption of appraiser, receiver, trustee, administrator, executor, commissioner, auditor, juror, arbitrator, or referee by giving, offering, or promising gift or gratuity regarding pending matter; intent; penalties.

Sec. 119. (1) A person who corrupts or attempts to corrupt an appraiser, receiver, trustee, administrator, executor, commissioner, auditor, juror, arbitrator, or referee by giving, offering, or promising any gift or gratuity with the intent to bias the opinion or influence the decision of that appraiser, receiver, trustee, administrator, executor, commissioner, auditor, juror, arbitrator, or referee regarding any matter pending in a court, or before an inquest, or for the decision for which the appraiser, receiver, trustee, administrator, executor, commissioner, auditor, juror, arbitrator, or referee was appointed or chosen, 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 4 years or a fine of not more than $5,000.00, or both.

(b) If the violation is committed in a criminal case for which the maximum term of imprisonment for the violation is more than 10 years, or the violation is punishable by imprisonment for life or any term of years, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $20,000.00, or both.

(2) This section does not prohibit a person from being charged with, convicted of, or punished for any other crime including any other violation of law arising out of the same transaction as the violation of this section.

(3) The court may order a term of imprisonment imposed for violating this section to be served consecutively to a term of imprisonment imposed for any other crime, including any other violation of law arising out of the same transaction as the violation of this section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.119;—Am. 2000, Act 453, Eff. Mar. 28, 2001.

Former law: See section 9 of Ch. 156 of R.S. 1846, being CL 1857, § 5828; CL 1871, § 7661; How., § 9243; CL 1897, § 11313; CL 1915, § 14980; and CL 1929, § 16571.

750.120 Jurors, appraisers, etc.; accepting bribe.

Sec. 120. Juror, etc., accepting bribe—Any person summoned as a juror or chosen or appointed as an appraiser, receiver, trustee, administrator, executor, commissioner, auditor, arbitrator or referee who shall corruptly take anything to give his verdict, award, or report, or who shall corruptly receive any gift or gratuity whatever, from a party to any suit, cause, or proceeding, for the trial or decision of which such juror shall have been summoned, or for the hearing or determination of which such appraiser, receiver, trustee, administrator, executor, commissioner, auditor, arbitrator, or referee shall have been chosen or appointed, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.120.

Former law: See section 10 of Ch. 156 of R.S. 1846, being CL 1857, § 5829; CL 1871, § 7662; How., § 9244; CL 1897, § 11314; CL 1915, § 14981; CL 1929, § 16572; and Act 120 of 1875.

750.120a Willfully attempting to influence juror by intimidation or other improper means; retaliating against person for having performed duties as juror; penalties.

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Sec. 120a. (1) A person who willfully attempts to influence the decision of a juror in any case by argument or persuasion, other than as part of the proceedings in open court in the trial of the case, 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.

(2) A person who willfully attempts to influence the decision of a juror in any case by intimidation, other than as part of the proceedings in open court in the trial of the case, is guilty of a crime as follows:

(a) Except as provided in subdivisions (b) and (c), the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

(b) If the intimidation is committed in a criminal case for which the maximum term of imprisonment for the violation is more than 10 years, or the violation is punishable by imprisonment for life or any term of years, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $20,000.00, or both.

(c) If the intimidation involved committing or attempting to commit a crime or a threat to kill or injure any person or to cause property damage, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $25,000.00, or both.

(3) Subsections (1) and (2) do not prohibit any deliberating juror from attempting to influence other members of the same jury by any proper means.

(4) A person who retaliates, attempts to retaliate, or threatens to retaliate against another person for having performed his or her duties as a juror is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $20,000.00, or both. As used in this subsection, "retaliate" means any of the following:

(a) Committing or attempting to commit a crime against any person.

(b) Threatening to kill or injure any person or threatening to cause property damage.

(5) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law including any violation of law arising out of the same transaction as the violation of this section.

(6) The court may order a term of imprisonment imposed for violating subsection (2) or (4) to be served consecutively to a term of imprisonment imposed for any other violation of law including any violation of law arising out of the same transaction as the violation of this section.

History: Add. 1955, Act 88, Eff. Oct. 14, 1955;—Am. 2000, Act 450, Eff. Mar. 28, 2001;—Am. 2003, Act 280, Imd. Eff. Jan. 8, 2004.

750.120b Jury deliberations; recording or attempting to record; penalty.

Sec. 120b. It shall be unlawful for any person to attempt to record or to record the deliberation of a jury in any case. Any person violating the provisions of this section shall be guilty of a misdemeanor.

History: Add. 1956, Act 47, Eff. Aug. 11, 1956.

750.121 Public institutions; bribery of officers.

Sec. 121. Bribery of officers of public institutions by persons having contracts therewith—Any person interested directly or indirectly in a contract with a state or municipal institution who shall corruptly give, offer or promise to any officer of such institution any bribe, gift, or gratuity whatever, with intent to improperly influence his official action under such contract, shall be guilty of felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.121.

Former law: See section 2 of Act 107 of 1873, being How., § 9356; CL 1897, § 11385; CL 1915, § 15103; CL 1929, § 484; and Act 297 of 1915.

750.122 Prohibited acts; witnesses; threat or intimidation; affirmative defense; violation as felony; penalties; applicability of section; definitions.

Sec. 122. (1) A person shall not give, offer to give, or promise anything of value to an individual for any of the following purposes:

(a) To discourage any individual from attending a present or future official proceeding as a witness, testifying at a present or future official proceeding, or giving information at a present or future official proceeding.

(b) To influence any individual's testimony at a present or future official proceeding.

(c) To encourage any individual to avoid legal process, to withhold testimony, or to testify falsely in a present or future official proceeding.

(2) Subsection (1) does not apply to the reimbursement or payment of reasonable costs for any witness to provide a statement to testify truthfully or provide truthful information in an official proceeding as provided

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for under section 16 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.66, or section 2164 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2164, or court rule.

(3) A person shall not do any of the following by threat or intimidation:

(a) Discourage or attempt to discourage any individual from attending a present or future official proceeding as a witness, testifying at a present or future official proceeding, or giving information at a present or future official proceeding.

(b) Influence or attempt to influence testimony at a present or future official proceeding.

(c) Encourage or attempt to encourage any individual to avoid legal process, to withhold testimony, or to testify falsely in a present or future official proceeding.

(4) It is an affirmative defense under subsections (1) and (3), for which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify or provide evidence truthfully.

(5) Subsections (1) and (3) do not apply to any of the following:

(a) The lawful conduct of an attorney in the performance of his or her duties, such as advising a client.

(b) The lawful conduct or communications of a person as permitted by statute or other lawful privilege.

(6) A person shall not willfully impede, interfere with, prevent, or obstruct or attempt to willfully impede, interfere with, prevent, or obstruct the ability of a witness to attend, testify, or provide information in or for a present or future official proceeding.

(7) A person who violates this section is guilty of a crime as follows:

(a) Except as provided in subdivisions (b) and (c), the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

(b) If the violation is committed in a criminal case for which the maximum term of imprisonment for the violation is more than 10 years, or the violation is punishable by imprisonment for life or any term of years, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $20,000.00, or both.

(c) If the violation involves committing or attempting to commit a crime or a threat to kill or injure any person or to cause property damage, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $25,000.00, or both.

(8) A person who retaliates, attempts to retaliate, or threatens to retaliate against another person for having been a witness in an official proceeding is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $20,000.00, or both. As used in this subsection, “retaliate” means to do any of the following:

(a) Commit or attempt to commit a crime against any person.

(b) Threaten to kill or injure any person or threaten to cause property damage.

(9) This section applies regardless of whether an official proceeding actually takes place or is pending or whether the individual has been subpoenaed or otherwise ordered to appear at the official proceeding if the person knows or has reason to know the other person could be a witness at any official proceeding.

(10) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of this section.

(11) The court may order a term of imprisonment imposed for violating this section to be served consecutively to a term of imprisonment imposed for the commission of any other crime including any other violation of law arising out of the same transaction as the violation of this section.

(12) As used in this section:

(a) “Official proceeding” means a proceeding heard before a legislative, judicial, administrative, or other governmental agency or official authorized to hear evidence under oath, including a referee, prosecuting attorney, hearing examiner, commissioner, notary, or other person taking testimony or deposition in that proceeding.

(b) “Threaten or intimidate” does not mean a communication regarding the otherwise lawful access to courts or other branches of government, such as the otherwise lawful filing of any civil action or police report of which the purpose is not to harass the other person in violation of section 2907 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2907.

History: Add. 2000, Act 452, Eff. Mar. 28, 2001.

Compiler's note: Former § 750.122, which pertained to conflict of interest and officers of public institutions, was repealed by Act 317 of 1968, Eff. Sept. 1, 1968.

750.123 Officer omitting duty for reward.

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Sec. 123. A sheriff, coroner, constable, peace officer, or any other officer authorized to serve process or arrest or apprehend offenders against criminal law who shall receive from a defendant or from any other person any money or other valuable thing or any service or promise to pay or give money or to perform or omit to perform any act as a consideration, reward, or inducement, for omitting or delaying to arrest any defendant, or to carry him or her before a magistrate, or for delaying to take any person to prison, or for postponing the sale of any property under an execution, or for omitting or delaying to perform any duty pertaining to his or her office, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00. However, if that defendant is charged with an offense against the criminal laws of this state, an officer convicted under this section may be punished by any fine or by any term of imprisonment or both a fine and imprisonment, within the limits fixed by the statute that the defendant is charged with having violated.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.123;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 21 of Ch. 156 of R.S. 1846, being CL 1857, § 5840; CL 1871, § 7673; How., § 9255; CL 1897, § 11325; CL 1915, § 14992; CL 1929, § 16583; and Act 242 of 1921.

750.124 Bribery of athlete.

Sec. 124. Any person who corruptly gives, offers or promises to any person engaged in amateur or professional baseball, boxing, wrestling or other competitive athletic pursuits, any gift, gratuity or valuable thing whatever, with intent to influence him to lose or try to lose, or to affect the result in any way of, any contest in which he is participating or expects to participate; or any person engaged in amateur or professional baseball, boxing, wrestling or other competitive athletic pursuits, who corruptly solicits or accepts a gift, gratuity or valuable thing, or a promise to make a gift or to do an act beneficial to himself, under an agreement or with the understanding that he shall lose or try to lose, or to affect the result in any way of, any contest in which he is participating or expects to participate, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1945, Act 160, Imd. Eff. May 16, 1945;—CL 1948, 750.124;—Am. 1951, Act 91, Eff. Sept. 28, 1951.

Former law: See section 1 of Act 238 of 1921, being CL 1929, § 17101.

750.125 Giving, offering, or promising commission, gift, or gratuity to agent, employee, or other person with intent to influence action of agent or employee; requesting or accepting commission, gift, or gratuity; using or giving document containing materially false, erroneous, or defective statement; evidence; use of truthful testimony, evidence, or other information against witness in criminal case; violation as misdemeanor.

Sec. 125. (1) A person shall not give, offer, or promise a commission, gift, or gratuity to an agent, employee, or other person or do or offer to do an act beneficial to an agent, employee, or other person with intent to influence the action of the agent or employee in relation to his or her principal's or employer's business.

(2) An agent or employee shall not request or accept a commission, gift, or gratuity, or a promise of a commission, gift, or gratuity, for the agent, employee, or another person or the doing of an act or offer of an act beneficial to the agent, employee, or another person according to an agreement or understanding between the agent or employee and any other person that the agent or employee shall act in a particular manner in relation to his or her principal's or employer's business.

(3) A person shall not use or give to an agent, employee, or other person, and an agent or employee shall not use, approve, or certify, with intent to deceive the principal or employer, a receipt, account, invoice, or other document concerning which the principal or employer is interested that contains a statement that is materially false, erroneous, or defective or omits to state fully any commission, money, property, or other valuable thing given or agreed to be given to the agent or employee.

(4) Evidence is not admissible in any proceeding or prosecution under this section to show that a gift or acceptance of a commission, money, property, or other valuable thing described in this section is customary in a business, trade, or calling. The customary nature of a transaction is not a defense in a proceeding or prosecution under this section.

(5) In a proceeding or prosecution under this section, a person shall not be excused from attending and testifying or from producing documentary evidence pursuant to a subpoena on the ground that the testimony or evidence may tend to incriminate him or her or subject him or her to a penalty or forfeiture. Truthful testimony, evidence, or other truthful information compelled under this section and any information derived directly or indirectly from that truthful testimony, evidence, or other truthful information shall not be used against the witness in a criminal case, except for impeachment purposes or in a prosecution for perjury or otherwise failing to testify or produce evidence as required.

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(6) 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.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.125;—Am. 1999, Act 251, Imd. Eff. Dec. 28, 1999;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 210 of 1905, being CL 1915, § 15590; CL 1929, § 17094; and sections 2 to 6 of Act 146 of 1923, being CL 1929, §§ 17095 to 17099.

CHAPTER XVIII
BUCKET SHOPS

750.126 Intent of chapter.

Sec. 126. Intent of chapter—It is the intention of this chapter to prevent, punish and prohibit within this state, the business now engaged in and conducted in places commonly known and designated as bucket shops, and also to include the practice now commonly known as bucket shopping by any person or persons, agents, corporations, associations or copartnerships who or which ostensibly carry on the business or occupation of commission merchants or brokers in grain, provisions, cotton, coffee, petroleum, stocks, bonds or other commodities whatsoever.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.126.

Former law: See section 1 of Act 336 of 1907, being CL 1915, § 7805; and CL 1929, § 9133.

750.127 Bucket shop; definition.

Sec. 127. Bucket shops defined—A bucket shop, within the meaning of this chapter, is defined to be an office, store or other place wherein the proprietor or keeper thereof, or other person or agent, either in his or its own behalf, or as the agent or correspondent of any other person, corporation, association or copartnership within or without the state conducts the business of making or offering to make contracts, agreements, trades or transactions respecting the purchase or sale, or purchase and sale of any stocks, grains, provisions or other commodity or personal property wherein both parties thereto, or said proprietor or keeper contemplated or intended that the contracts, agreements, trades or transactions shall be, or may be closed, adjusted or settled according to or upon the basis of the market quotations or price made on any board of trade or exchange, upon which the commodities or securities referred to in such contracts, agreements, trades or transactions are dealt in, and without a bona fide transaction on such board of trade or exchange, or wherein both parties or such keeper or proprietor shall contemplate or intend that such contracts, agreements, trades or transactions shall be or may be deemed closed or terminated, when the market quotations of prices made on such board of trade or exchange for the articles or securities named in such contracts, agreements, trades or transactions shall reach a certain figure, and also any office, store or other place where the keeper, person or agent or proprietor thereof, either in his or its own behalf, or as an agent as aforesaid therein, makes or offers to make, with others, contracts, trades or transactions for the purchase or sale of any such commodity, wherein the parties thereto do not contemplate the actual or bona fide receipt or delivery of such property, but do contemplate a settlement thereof based upon differences in the price at which said property is or is claimed to be bought and sold. The said crime shall be complete against any proprietor, person, agent or keeper thus offering to make any such contracts, trades or transactions, whether such offer is accepted or not.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.127.

Former law: See section 1 of Act 336 of 1907, being CL 1915, § 7805; and CL 1929, § 9133.

750.128 Maintenance of bucket shop; punishment.

Sec. 128. Punishment—Any corporation, association, copartnership, person or persons, or agent, who shall keep or cause to be kept within this state, any bucket shop, and any corporation, person or persons, or agents whether acting individually or as a member or as an officer, agent or employe or any corporation, association or copartnership, who shall keep, maintain or assist in the keeping and maintaining, of any such bucket shop within this state, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 2 years or by a fine of not less than 500 dollars or more than 1,000 dollars.

The continuance of such establishment after the first conviction shall be deemed a second offense and if the offender be a corporation, it shall be liable to forfeiture of all its rights and privileges as such.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.128.

Former law: See section 2 of Act 336 of 1907, being CL 1915, § 7806; and CL 1929, § 9134.

750.129 Accessories.

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Sec. 129. Accessories—Any corporation, association or copartnership, person or persons or his agent or agents who shall communicate, receive, exhibit or display in any manner, any statements of quotations of the prices of any property mentioned in the second section of the chapter with a view to any transaction or transactions in this chapter prohibited, shall be deemed an accessory, and upon conviction thereof, shall be fined and punished the same as the principal, as provided in the next preceding section of this chapter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.129.

Former law: See section 3 of Act 336 of 1907, being CL 1915, § 7807; and CL 1929, § 9135.

750.130 Commission merchant; furnishing written statement upon demand.

Sec. 130. Commission merchant to furnish written statement upon demand—It shall be the duty of every commission merchant, copartnership, association, corporation, person or persons, or agent or broker in this state, engaged in the business of buying or selling of or buying and selling stocks, bonds, grain, provisions or other commodities or personal property for any person, principal, customer or purchaser, to furnish, upon demand, to any customer or principal for whom such merchant, broker, copartnership, corporation, association, person or persons, or agent or agents has executed any order for the actual purchase or sale of the commodities hereinbefore mentioned, either for immediate or future delivery, a written statement containing the names of the parties from whom the property was bought, or to whom it shall have been sold, as the case may be, the time when, the place where, and the price at which the same was either bought or sold, and in case such commission merchant, broker, person or persons, or agent or agents, copartnership, corporation or association shall refuse promptly to furnish the statement upon reasonable demand, the fact of such refusal shall be prima facie evidence that such property was not sold or bought in a legitimate manner, but was bought in violation thereof.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.130.

Former law: See section 4 of Act 336 of 1907, being CL 1915, § 7808; and CL 1929, § 9136.

CHAPTER XIX
CHECKS WITHOUT SUFFICIENT FUNDS

750.131 Check, draft, or order for payment of money; making, drawing, uttering, or delivering without sufficient funds with intent to defraud; violation; penalties; enhanced sentence based on prior convictions.

Sec. 131. (1) A person shall not make, draw, utter, or deliver any check, draft, or order for the payment of money, to apply on account or otherwise, upon any bank or other depository with intent to defraud and knowing at the time of the making, drawing, uttering, or delivering that the maker or drawer does not have sufficient funds in or credit with the bank or other depository to pay the check, draft, or order in full upon its presentation.

(2) A person shall not make, draw, utter, or deliver any check, draft, or order for the payment of money, to apply on account or otherwise, upon any bank or other depository with intent to defraud if the person does not have sufficient funds for the payment of the check, draft, or order when presentation for payment is made to the drawee. This subsection does not apply if the lack of funds is due to garnishment, attachment, levy, or other lawful cause and that fact was not known to the person when the person made, drew, uttered, or delivered the check, draft, or order.

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

(a) If the amount payable in the check, draft, or order is less than $100.00, as follows:

(*i*) For a first offense, a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(*ii*) For an offense following 1 or more prior convictions under this section or a local ordinance substantially corresponding to this section, 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 amount payable in the check, draft, or order is $100.00 or more but less than $500.00, as follows:

(*i*) For a first or second offense, a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00 or 3 times the amount payable, whichever is greater, or both imprisonment and a fine.

(*ii*) For an offense following 2 or more prior convictions under this section, a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a).

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(c) If the amount payable in the check, draft, or order is $500.00 or more, a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00 or 3 times the amount payable, whichever is greater, or both imprisonment and a fine.

(4) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(5) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.131;—Am. 1962, Act 65, Eff. Mar. 28, 1963;—Am. 1984, Act 277, Eff. Mar. 29, 1985;—Am. 1998, Act 312, Eff. Jan. 1, 1999.

Former law: See section 1 of Act 271 of 1919, being CL 1929, § 12064; and Act 142 of 1923.

750.131a Check, draft, or order for payment of money; making, drawing, uttering, or delivering without account, credit, or sufficient funds with intent to defraud; violation as felony; penalties.

Sec. 131a. (1) A person shall not, with intent to defraud, make, draw, utter, or deliver any check, draft, or order for the payment of money, to apply on an account or otherwise, upon any bank or other depository, if at the time of making, drawing, uttering, or delivering the check, draft, or order he or she does not have an account in or credit with the bank or other depository for the payment of the check, draft, or order upon presentation. A person who violates this subsection is guilty of a felony, punishable by imprisonment for not more than 2 years, or by a fine of not more than $500.00, or both.

(2) A person shall not, with intent to defraud, make, draw, utter, or deliver, within a period of not more than 10 days, 3 or more checks, drafts, or orders for the payment of money, to apply on account or otherwise, upon any bank or other depository, knowing at the time of making, drawing, uttering, or delivering each of the checks, drafts, or orders that the maker or drawer does not have sufficient funds or credit with the bank or other depository for the payment of the check, draft, or order in full upon its presentation. A person who violates this subsection is guilty of a felony, punishable by imprisonment for not more than 2 years, or by a fine of not more than $500.00, or both.

History: Add. 1941, Act 200, Eff. Jan. 10, 1942;—CL 1948, 750.131a;—Am. 1984, Act 277, Eff. Mar. 29, 1985.

750.132 Evidence of intent.

Sec. 132. Evidence of intent to defraud, etc.—As against the maker or drawer thereof, the making, drawing, uttering or delivering of a check, draft or order, payment of which is refused by the drawee, when presented in the usual course of business, shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in or credit with such bank or other depository, provided such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with all costs and protest fees, within 5 days after receiving notice that such check, draft or order has not been paid by the drawee.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.132.

Former law: See section 2 of Act 271 of 1919, being CL 1929, § 12065.

750.133 Evidence of intent; notice of protest.

Sec. 133. Notice of protest as evidence of intent to defraud, etc.—Where such check, draft or order is protested, on the ground of insufficiency of funds or credit, the notice of protest thereof shall be admissible as proof of presentation, non-payment and protest, and shall be prima facie evidence of intent to defraud, and of knowledge of insufficient funds or credit with such bank or other depository.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.133.

750.134 Checks without sufficient funds; credit construed.

Sec. 134. Credit construed—The word “credit” as used herein, shall be construed to mean an arrangement or understanding with the bank or depository, for the payment of such check, draft or order, in full, upon the

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presentation thereof for payment.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1939, Act 314, Eff. Sept. 29, 1939;—CL 1948, 750.134.

Former law: See section 3 of Act 271 of 1919, being CL 1929, § 12066.

CHAPTER XX
CHILDREN

750.135 Children; exposing with intent to injure or abandon; surrender of child to emergency service provider; applicability of subsection (1); definitions.

Sec. 135. (1) Except as provided in subsection (3), a father or mother of a child under the age of 6 years, or another individual, who exposes the child in any street, field, house, or other place, with intent to injure or wholly to abandon the child, is guilty of a felony, punishable by imprisonment for not more than 10 years.

(2) Except for a situation involving actual or suspected child abuse or child neglect, it is an affirmative defense to a prosecution under subsection (1) that the child was not more than 72 hours old and was surrendered to an emergency service provider under chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20. A criminal investigation shall not be initiated solely on the basis of a newborn being surrendered to an emergency service provider under chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20.

(3) Subsection (1) does not apply to a mother of a newborn who is surrendered under the born alive infant protection act. Subsection (1) applies to an attending physician who delivers a live newborn as a result of an attempted abortion and fails to comply with the requirements of the born alive infant protection act.

(4) As used in this section:

(a) "Emergency service provider" means a uniformed employee or contractor of a fire department, hospital, or police station when that individual is inside the premises and on duty.

(b) "Fire department" means an organized fire department as that term is defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

(c) "Hospital" means a hospital that is licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(d) "Police station" means a police station as that term is defined in section 43 of the Michigan vehicle code, 1949 PA 300, MCL 257.43.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.135;—Am. 2000, Act 233, Eff. Jan. 1, 2001;—Am. 2002, Act 689, Eff. Mar. 31, 2003.

Compiler's note: Enacting section 1 of Act 233 of 2000 provides:

"Enacting section 1. Section 135 of the Michigan penal code, 1931 PA 328, MCL 750.135, as amended by this amendatory act, does not apply to a violation of that section committed before the effective date of this amendatory act."

Former law: See section 31 of Ch. 153 of R.S. 1846, being CL 1857, § 5741; CL 1871, § 7540; How., § 9105; CL 1897, § 11500; CL 1915, § 15222; CL 1929, § 16738; and Act 200 of 1875.

750.136, 750.136a Repealed. 1988, Act 251, Eff. Sept. 1, 1988.

Compiler's note: The repealed sections pertained to cruelty to and torturing of children.

750.136b Definitions; child abuse.

Sec. 136b. (1) As used in this section:

(a) "Child" means a person who is less than 18 years of age and is not emancipated by operation of law as provided in section 4 of 1968 PA 293, MCL 722.4.

(b) "Cruel" means brutal, inhuman, sadistic, or that which torments.

(c) "Omission" means a willful failure to provide the food, clothing, or shelter necessary for a child's welfare or the willful abandonment of a child.

(d) "Person" means a child's parent or guardian or any other person who cares for, has custody of, or has authority over a child regardless of the length of time that a child is cared for, in the custody of, or subject to the authority of that person.

(e) "Physical harm" means any injury to a child's physical condition.

(f) "Serious physical harm" means any physical injury to a child that seriously impairs the child's health or physical well-being, including, but not limited to, brain damage, a skull or bone fracture, subdural hemorrhage or hematoma, dislocation, sprain, internal injury, poisoning, burn or scald, or severe cut.

(g) "Serious mental harm" means an injury to a child's mental condition or welfare that is not necessarily permanent but results in visibly demonstrable manifestations of a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

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(2) A person is guilty of child abuse in the first degree if the person knowingly or intentionally causes serious physical or serious mental harm to a child. Child abuse in the first degree is a felony punishable by imprisonment for not more than 15 years.

(3) A person is guilty of child abuse in the second degree if any of the following apply:

(a) The person's omission causes serious physical harm or serious mental harm to a child or if the person's reckless act causes serious physical harm to a child.

(b) The person knowingly or intentionally commits an act likely to cause serious physical or mental harm to a child regardless of whether harm results.

(c) The person knowingly or intentionally commits an act that is cruel to a child regardless of whether harm results.

(4) Child abuse in the second degree is a felony punishable by imprisonment for not more than 4 years.

(5) A person is guilty of child abuse in the third degree if the person knowingly or intentionally causes physical harm to a child. Child abuse in the third degree is a misdemeanor punishable by imprisonment for not more than 2 years.

(6) A person is guilty of child abuse in the fourth degree if the person's omission or reckless act causes physical harm to a child. Child abuse in the fourth degree is a misdemeanor punishable by imprisonment for not more than 1 year.

(7) This section does not prohibit a parent or guardian, or other person permitted by law or authorized by the parent or guardian, from taking steps to reasonably discipline a child, including the use of reasonable force.

History: Add. 1988, Act 251, Eff. Sept. 1, 1988;—Am. 1999, Act 273, Eff. Apr. 3, 2000.

Compiler's note: Section 4 of Act 251 of 1988 provides: "All proceedings pending and liabilities existing at the time this amendatory act takes effect are saved and may be prosecuted according to the law in force when they are commenced pursuant to section 4a of chapter 1 of the Revised Statutes of 1846, being section 8.4a of the Michigan Compiled Laws."

750.136c Transfer or acquisition of legal or physical custody of individual; violation as felony; penalty.

Sec. 136c. (1) A person shall not transfer or attempt to transfer the legal or physical custody of an individual to another person for money or other valuable consideration, except as otherwise permitted by law.

(2) A person shall not acquire or attempt to acquire the legal or physical custody of an individual for payment of money or other valuable consideration to another person, except as otherwise permitted by law.

(3) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $100,000.00, or both.

History: Add. 2000, Act 205, Eff. Sept. 1, 2000.

750.137 Purchases from minors.

Sec. 137. A dealer in second-hand goods, junk shop keeper, peddler, rag or paper buyer, pawnbroker or hawker who purchases either directly or indirectly or by his agent or clerk, any goods, thing, article or articles from a minor without the written consent of the parent or guardian of the minor shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.137;—Am. 1972, Act 32, Imd. Eff. Feb. 19, 1972.

Former law: See section 1 of Act 52 of 1889, being How., § 9354; CL 1897, § 11376; CL 1915, § 15094; and CL 1929, § 9830.

750.138 Children; legal custody; interference.

Sec. 138. A person who in any manner interferes or attempts to interfere with the custody of any child who has been adjudged to be dependent, neglected, or delinquent pursuant to chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, after the making of an order of commitment to a state institution or otherwise, in accordance with that act and pending the actual admission and reception of the child as an inmate of the institution, school, or home to which commitment is made; and any person who entices the neglected, dependent, or delinquent child from and out of the custody of the person or persons entitled thereto under the order of the court or who shall in any way interfere or attempt to interfere with the custody; and a person who entices or procures the child committed as aforesaid to leave and depart from any hospital or other place where the child was placed pursuant to the order of the court for the purpose of receiving medical treatment pending admission into the state institution, school, home, or other institution or place to which commitment may have been made, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.138;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

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Compiler's note: Act 6 of 1907, Ex. Sess., referred to in this section, was repealed by Act 288 of 1939. For present law, see § 712A.1 et seq.

Former law: See sections 1 and 2 of Act 286 of 1915, being CL 1915, §§ 2026 and 2027; CL 1929, §§ 12850 and 12851.

750.139 Child under 16 years of age; confinement; commitment or trial; presence at trial of adults; transportation with adults charged with or convicted of crime; exception; violation as misdemeanor.

Sec. 139. (1) Except as provided in subsection (2), a child under 16 years of age while under arrest, confinement, or conviction for any crime, shall not be placed in any apartment or cell of any prison or place of confinement with any adult who is under arrest, confinement, or conviction for any crime, or be permitted to remain in any court room during the trial of adults, or be transported in any vehicle of transportation in company with adults charged with or convicted of crime.

(2) Subsection (1) does not apply to prisoners being transported to or from, or confined in a youth correctional facility operated by the department of corrections or a private vendor under section 20g of 1953 PA 232, MCL 791.220g.

(3) All cases involving the commitment or trial of children under 16 years of age for any crime or misdemeanor, before any court, shall be heard and determined by the court at a suitable time, to be designated by it, separate and apart from the trial of other criminal cases.

(4) Any person who violates this section is guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.139;—Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991;—Am. 1998, Act 510, Imd. Eff. Jan. 8, 1999.

Former law: See sections 1 to 3 of Act 110 of 1901, being CL 1915, §§ 7240 to 7242; and CL 1929, §§ 12816 to 12818.

750.140 Children; exhibition; employ; apprentice.

Sec. 140. Any person having the care, custody, or control of any child under 16 years of age, who shall exhibit, use, or employ, or who shall apprentice, give away, let out, or otherwise dispose of the child to any person in or for the vocation, service, or occupation of rope or wire walking, gymnast, contortionist, rider, or acrobat, dancing, or begging in any place whatsoever, or for any obscene, indecent, or immoral purpose, exhibition, or practice whatsoever, or for any exhibition injurious to the health or dangerous to the life or limb of the child, or who shall cause, procure, or encourage the child to engage therein, and any person who shall take, receive, hire, employ, use, exhibit, or have in custody any child for any of the purposes mentioned in 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.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.140;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 260 of 1881, being How., § 1998; CL 1897, § 5553; CL 1915, § 7222; and CL 1929, § 12798.

750.141 Presence of minor under 17 in places where liquor is sold, given away, or furnished; attendance of minors at dances.

Sec. 141. A minor child under 17 years of age shall not be permitted to remain in a dance hall, saloon, barroom or any place where spirituous or intoxicating liquor, wine or beer, or any beverage, liquor or liquors containing spirituous or intoxicating liquor, beer or malt liquor is sold, given away or furnished for a beverage, unless the minor is accompanied by parent or guardian. A proprietor, keeper or manager of any such place who permits a minor child to remain in any such place, and a person who encourages or induces in any way the minor child to enter the place or to remain therein shall be deemed guilty of a misdemeanor. This section shall not prevent a township, village or city from establishing, by ordinance, regulations more stringent than the provisions of this act relative to the attendance of a minor at theaters, movie houses, bowling or billiard halls and dance halls. This section shall not prevent a township, village or city from establishing, by ordinance, regulations permitting the attendance of minor children at dances where no spirituous or intoxicating liquor, beer or malt liquor is sold, given away or consumed in the dance area.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.141;—Am. 1959, Act 254, Eff. Mar. 19, 1960;—Am. 1966, Act 166, Imd. Eff. July 1, 1966;—Am. 1972, Act 32, Imd. Eff. Feb. 19, 1972.

Former law: See section 3 of Chapter XXX of Part II of Act 319 of 1927, being CL 1929, § 7631; section 2 of Act 260 of 1881, being How., § 1999; CL 1897, § 5554; CL 1915, § 7223; CL 1929, § 12799; Act 236 of 1905; and Act 55 of 1907.

750.141a Definitions; prohibited conduct by person having control of real property; applicability of section; violation of subsection (2) as misdemeanor; penalty; evidence of rebuttable presumption; selling or furnishing alcoholic beverage to minor not authorized by act; criminal penalty.

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Sec. 141a. (1) As used in this section:

(a) "Alcoholic beverage" means an alcoholic liquor as defined in section 2 of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.2 of the Michigan Compiled Laws.

(b) "Allow" means to give permission for, or approval of, possession or consumption of an alcoholic beverage or a controlled substance, by any of the following means:

(*i*) In writing.

(*ii*) By 1 or more oral statements.

(*iii*) By any form of conduct, including a failure to take corrective action, that would cause a reasonable person to believe that permission or approval has been given.

(c) "Control over any premises, residence, or other real property" means the authority to regulate, direct, restrain, superintend, control, or govern the conduct of other individuals on or within that premises, residence, or other real property, and includes, but is not limited to, a possessory right.

(d) "Controlled substance" means that term as defined in section 7104 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7104 of the Michigan Compiled Laws.

(e) "Corrective action" means any of the following:

(*i*) Making a prompt demand that the minor or other individual depart from the premises, residence, or other real property, or refrain from the unlawful possession or consumption of the alcoholic beverage or controlled substance on or within that premises, residence, or other real property, and taking additional action described in subparagraph (*ii*) or (*iii*) if the minor or other individual does not comply with the request.

(*ii*) Making a prompt report of the unlawful possession or consumption of alcoholic liquor or a controlled substance to a law enforcement agency having jurisdiction over the violation.

(*iii*) Making a prompt report of the unlawful possession or consumption of alcoholic liquor or a controlled substance to another person having a greater degree of authority or control over the conduct of persons on or within the premises, residence, or other real property.

(f) "Minor" means an individual less than 21 years of age.

(g) "Premises" means a permanent or temporary place of assembly, other than a residence, including, but not limited to, any of the following:

(*i*) A meeting hall, meeting room, or conference room.

(*ii*) A public or private park.

(h) "Residence" means a permanent or temporary place of dwelling, including, but not limited to, any of the following:

(*i*) A house, apartment, condominium, or mobile home.

(*ii*) A cottage, cabin, trailer, or tent.

(*iii*) A motel unit, hotel unit, or bed and breakfast unit.

(i) "Social gathering" means an assembly of 2 or more individuals for any purpose, unless all of the individuals attending the assembly are members of the same household or immediate family.

(2) Except as otherwise provided in subsection (3), an owner, tenant, or other person having control over any premises, residence, or other real property shall not do either of the following:

(a) Knowingly allow a minor to consume or possess an alcoholic beverage at a social gathering on or within that premises, residence, or other real property.

(b) Knowingly allow any individual to consume or possess a controlled substance at a social gathering on or within that premises, residence, or other real property.

(3) This section does not apply to the use, consumption, or possession of a controlled substance by an individual pursuant to a lawful prescription, or to the use, consumption, or possession of an alcoholic beverage by a minor for religious purposes.

(4) Except as provided in subsection (5), a person who violates subsection (2) is guilty of a misdemeanor punishable by imprisonment for not more than 30 days or by a fine of not more than $1,000.00, or both.

(5) For a second or subsequent violation of subsection (2) the person is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by a fine of not more than $1,000.00, or both.

(6) Evidence of all of the following gives rise to a rebuttable presumption that the defendant allowed the consumption or possession of an alcoholic beverage or a controlled substance on or within a premises, residence, or other real property, in violation of this section:

(a) The defendant had control over the premises, residence, or other real property.

(b) The defendant knew that a minor was consuming or in possession of an alcoholic beverage or knew that an individual was consuming or in possession of a controlled substance at a social gathering on or within that premises, residence, or other real property.

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(c) The defendant failed to take corrective action.

(7) This section does not authorize selling or furnishing an alcoholic beverage to a minor.

(8) 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.

History: Add. 1994, Act 31, Eff. June 1, 1994.

Compiler's note: Former § 750.141a, which pertained to furnishing alcoholic beverage to minors without prescription, was repealed by Act 531 of 1978, Eff. Dec. 23, 1978.

750.141b Repealed. 1963, Act 162, Eff. Sept. 6, 1963.

Compiler's note: The repealed section provided for form, issuance, and use of liquor purchase identification cards by persons between ages of 21 and 25; imposed penalty for misuse or falsification.

750.141c, 750.141d Repealed. 1978, Act 531, Eff. Dec. 23, 1978.

Compiler's note: The repealed sections pertained to false representation or information as to age for purpose of purchasing alcoholic liquor.

750.142 Furnishing obscene publications or criminal news to minors.

Sec. 142. A person who sells, gives away or in any way furnishes to a person under the age of 18 years a book, pamphlet, or other printed paper or other thing, containing obscene language, or obscene prints, pictures, figures or descriptions tending to corrupt the morals of youth, or any newspapers, pamphlets or other printed paper devoted to the publication of criminal news, police reports, or criminal deeds, and a person who shall in any manner hire, use or employ a person under the age of 18 years to sell, give away, or in any manner distribute such books, pamphlets or printed papers, and any person having the care, custody or control of a person under the age of 18 years, who permits him or her to engage in any such employment, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.142;—Am. 1972, Act 14, Imd. Eff. Feb. 19, 1972.

Former law: See section 5 of Act 260 of 1881, being How., § 2002; CL 1897, § 5557; CL 1915, § 7226; and CL 1929, § 12802.

750.143 Children; exhibition of obscene matter.

Sec. 143. Exhibition of obscene matter within view of children—Any person who shall exhibit upon any public street or highway, or in any other place within the view of children passing on any public street or highway, any book, pamphlet or other printed paper or thing containing obscene language or obscene prints, figures, or descriptions, tending to the corruption of the morals of youth, or any newspapers, pamphlets, or other printed paper or thing devoted to the publication of criminal news, police reports or criminal deeds, shall on conviction thereof be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.143.

Former law: See section 6 of Act 260 of 1881, being How., § 2003; CL 1897, § 5558; CL 1915, § 7227; and CL 1929, § 12803.

750.144 Minor; boarding houses, licensing.

Sec. 144. Licensed boarding homes for children—Any person who maintains a boarding home for children, unless licensed therefor by the state welfare commission, shall be guilty of a misdemeanor.

Any person who has in his custody or control for a longer period than 30 days, 1 or more children under the age of 15 years unattended by a parent or guardian, except children related to him by blood or marriage, for the purpose of providing such child or children with care, food and lodging, shall be deemed to maintain a boarding home for children: Provided, That nothing in this section shall be construed to apply to the legal guardian of the child.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.144.

Former law: See section 6 of Act 136 of 1919, being CL 1929, § 12874.

750.145 Minor; contributing to neglect or delinquency.

Sec. 145. Contributing to neglect or delinquency of children—Any person who shall by any act, or by any word, encourage, contribute toward, cause or tend to cause any minor child under the age of 17 years to become neglected or delinquent so as to come or tend to come under the jurisdiction of the juvenile division of the probate court, as defined in section 2 of chapter 12a of Act No. 288 of the Public Acts of 1939, as added by Act No. 54 of the Public Acts of the First Extra Session of 1944, and any amendments thereto, whether or not such child shall in fact be adjudicated a ward of the probate court, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1939, Act 88, Eff. Sept. 29, 1939;—Am. 1945, Act 85, Eff. Sept. 6, 1945;—CL

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1948, 750.145.

Compiler's note: For provisions of section 2, referred to in this section, see § 712A.2.

Former law: See section 2 of Chapter XXX of Part II of Act 319 of 1927, being CL 1929, § 7630; and section 13 of Chapter XXXVI of Part II of Act 319 of 1927, being CL 1929, § 7696.

750.145a Accosting, enticing or soliciting child for immoral purpose.

Sec. 145a. A person who accosts, entices, or solicits a child less than 16 years of age, regardless of whether the person knows the individual is a child or knows the actual age of the child, or an individual whom he or she believes is a child less than 16 years of age with the intent to induce or force that child or individual to commit an immoral act, to submit to an act of sexual intercourse or an act of gross indecency, or to any other act of depravity or delinquency, or who encourages a child less than 16 years of age, regardless of whether the person knows the individual is a child or knows the actual age of the child, or an individual whom he or she believes is a child less than 16 years of age to engage in any of those acts is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $4,000.00, or both.

History: Add. 1935, Act 174, Eff. Sept. 21, 1935;—Am. 1939, Act 88, Eff. Sept. 29, 1939;—CL 1948, 750.145a;—Am. 2002, Act 45, Eff. June 1, 2002.

750.145b Accosting, enticing or soliciting child for immoral purpose; prior conviction; penalty.

Sec. 145b. (1) A person convicted of violating section 145a who has 1 or more prior convictions 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.

(2) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(3) As used in this section, “prior conviction” means a violation of section 145a or a violation of a law of another state substantially corresponding to section 145a.

History: Add. 1935, Act 174, Eff. Sept. 21, 1935;—Am. 1939, Act 88, Eff. Sept. 29, 1939;—CL 1948, 750.145b;—Am. 2002, Act 45, Eff. June 1, 2002.

750.145c Definitions; child sexually abusive activity or material; penalties; possession of child sexually abusive material; expert testimony; defenses; acts of commercial film or photographic print processor; report to law enforcement agency by computer technician; applicability and uniformity of section; enactment or enforcement of ordinances, rules, or regulations prohibited.

Sec. 145c. (1) As used in this section:

(a) "Appears to include a child" means that the depiction appears to include, or conveys the impression that it includes, a person who is less than 18 years of age, and the depiction meets either of the following conditions:

(*i*) It was created using a depiction of any part of an actual person under the age of 18.

(*ii*) It was not created using a depiction of any part of an actual person under the age of 18, but all of the following apply to that depiction:

(A) The average individual, applying contemporary community standards, would find the depiction, taken as a whole, appeals to the prurient interest.

(B) The reasonable person would find the depiction, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(C) The depiction depicts or describes a listed sexual act in a patently offensive way.

(b) "Child" means a person who is less than 18 years of age, subject to the affirmative defense created in subsection (6) regarding persons emancipated by operation of law.

(c) "Commercial film or photographic print processor" means a person or his or her employee who, for compensation, develops exposed photographic film into movie films, negatives, slides, or prints; makes prints

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from negatives or slides; or duplicates movie films or videotapes.

(d) "Computer technician" means a person who installs, maintains, troubleshoots, upgrades, or repairs computer hardware, software, personal computer networks, or peripheral equipment.

(e) "Contemporary community standards" means the customary limits of candor and decency in this state at or near the time of the alleged violation of this section.

(f) "Erotic fondling" means touching a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, or if the person is a child, the developing or undeveloped breast area, for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved. Erotic fondling does not include physical contact, even if affectionate, that is not for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved.

(g) "Erotic nudity" means the lascivious exhibition of the genital, pubic, or rectal area of any person. As used in this subdivision, "lascivious" means wanton, lewd, and lustful and tending to produce voluptuous or lewd emotions.

(h) "Listed sexual act" means sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, passive sexual involvement, sexual excitement, or erotic nudity.

(i) "Masturbation" means the real or simulated touching, rubbing, or otherwise stimulating of a person's own clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, or if the person is a child, the developing or undeveloped breast area, either by manual manipulation or self-induced or with an artificial instrument, for the purpose of real or simulated overt sexual gratification or arousal of the person.

(j) "Passive sexual involvement" means an act, real or simulated, that exposes another person to or draws another person's attention to an act of sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, sexual excitement, or erotic nudity because of viewing any of these acts or because of the proximity of the act to that person, for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved.

(k) "Prurient interest" means a shameful or morbid interest in nudity, sex, or excretion.

(*l*) "Child sexually abusive activity" means a child engaging in a listed sexual act.

(m) "Child sexually abusive material" means any depiction, whether made or produced by electronic, mechanical, or other means, including a developed or undeveloped photograph, picture, film, slide, video, electronic visual image, computer diskette, computer or computer-generated image, or picture, or sound recording which is of a child or appears to include a child engaging in a listed sexual act; a book, magazine, computer, computer storage device, or other visual or print or printable medium containing such a photograph, picture, film, slide, video, electronic visual image, computer, or computer-generated image, or picture, or sound recording; or any reproduction, copy, or print of such a photograph, picture, film, slide, video, electronic visual image, book, magazine, computer, or computer-generated image, or picture, other visual or print or printable medium, or sound recording.

(n) "Sadomasochistic abuse" means either of the following:

(*i*) Flagellation or torture, real or simulated, for the purpose of real or simulated sexual stimulation or gratification, by or upon a person.

(*ii*) The condition, real or simulated, of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification of a person.

(o) "Sexual excitement" means the condition, real or simulated, of human male or female genitals in a state of real or simulated overt sexual stimulation or arousal.

(p) "Sexual intercourse" means intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between a human and an animal, or with an artificial genital.

(2) A person who persuades, induces, entices, coerces, causes, or knowingly allows a child to engage in a child sexually abusive activity for the purpose of producing any child sexually abusive material, or a person who arranges for, produces, makes, or finances, or a person who attempts or prepares or conspires to arrange for, produce, make, or finance any child sexually abusive activity or child sexually abusive material is guilty of a felony, punishable by imprisonment for not more than 20 years, or a fine of not more than $100,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child.

(3) A person who distributes or promotes, or finances the distribution or promotion of, or receives for the purpose of distributing or promoting, or conspires, attempts, or prepares to distribute, receive, finance, or promote any child sexually abusive material or child sexually abusive activity is guilty of a felony, punishable by imprisonment for not more than 7 years, or a fine of not more than $50,000.00, or both, if that person

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knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child. This subsection does not apply to the persons described in section 7 of 1984 PA 343, MCL 752.367.

(4) A person who knowingly possesses any child sexually abusive material is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $10,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child. This subsection does not apply to any of the following:

(a) A person described in section 7 of 1984 PA 343, MCL 752.367, a commercial film or photographic print processor acting pursuant to subsection (8), or a computer technician acting pursuant to subsection (9).

(b) A police officer acting within the scope of his or her duties as a police officer.

(c) An employee or contract agent of the department of social services acting within the scope of his or her duties as an employee or contract agent.

(d) A judicial officer or judicial employee acting within the scope of his or her duties as a judicial officer or judicial employee.

(e) A party or witness in a criminal or civil proceeding acting within the scope of that criminal or civil proceeding.

(f) A physician, psychologist, limited license psychologist, professional counselor, or registered nurse licensed under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, acting within the scope of practice for which he or she is licensed.

(g) A social worker registered in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, acting within the scope of practice for which he or she is registered.

(5) Expert testimony as to the age of the child used in a child sexually abusive material or a child sexually abusive activity is admissible as evidence in court and may be a legitimate basis for determining age, if age is not otherwise proven.

(6) It is an affirmative defense to a prosecution under this section that the alleged child is a person who is emancipated by operation of law under section 4(2) of 1968 PA 293, MCL 722.4, as proven by a preponderance of the evidence.

(7) If a defendant in a prosecution under this section proposes to offer in his or her defense evidence to establish that a depiction that appears to include a child was not, in fact, created using a depiction of any part of an actual person under the age of 18, the defendant shall at the time of the arraignment on the information or within 15 days after arraignment but not less than 10 days before the trial of the case, or at such other time as the court directs, file and serve upon the prosecuting attorney of record a notice in writing of his or her intention to offer that defense. The notice shall contain, as particularly as is known to the defendant or the defendant's attorney, the names of witnesses to be called in behalf of the defendant to establish that defense. The defendant's notice shall include specific information as to the facts that establish that the depiction was not, in fact, created using a depiction of any part of an actual person under the age of 18. Failure to file a timely notice in conformance with this subsection precludes a defendant from offering this defense.

(8) If a commercial film or photographic print processor reports to a law enforcement agency having jurisdiction his or her knowledge or observation, within the scope of his or her professional capacity or employment, of a film, photograph, movie film, videotape, negative, or slide depicting a person that the processor has reason to know or reason to believe is a child engaged in a listed sexual act; furnishes a copy of the film, photograph, movie film, videotape, negative, or slide to a law enforcement agency having jurisdiction; or keeps the film, photograph, movie film, videotape, negative, or slide according to the law enforcement agency's instructions, both of the following shall apply:

(a) The identity of the processor shall be confidential, subject to disclosure only with his or her consent or by judicial process.

(b) If the processor acted in good faith, he or she shall be immune from civil liability that might otherwise be incurred by his or her actions. This immunity extends only to acts described in this subsection.

(9) If a computer technician reports to a law enforcement agency having jurisdiction his or her knowledge or observation, within the scope of his or her professional capacity or employment, of an electronic visual image, computer-generated image or picture or sound recording depicting a person that the computer technician has reason to know or reason to believe is a child engaged in a listed sexual act; furnishes a copy of that image, picture, or sound recording to the law enforcement agency; or keeps the image, picture, or sound recording according to the law enforcement agency's instructions, both of the following shall apply:

(a) The identity of the computer technician shall be confidential, subject to disclosure only with his or her

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consent or by judicial process.

(b) If the computer technician acted in good faith, he or she shall be immune from civil liability that might otherwise be incurred by his or her actions. This immunity extends only to acts described in this subsection.

(10) This section applies uniformly throughout the state and all political subdivisions and municipalities in the state.

(11) A local municipality or political subdivision shall not enact ordinances, nor enforce existing ordinances, rules, or regulations governing child sexually abusive activity or child sexually abusive material as defined by this section.

History: Add. 1977, Act 301, Eff. Mar. 30, 1978;—Am. 1988, Act 110, Eff. June 1, 1988;—Am. 1994, Act 444, Eff. Apr.1, 1995;—Am. 2002, Act 629, Eff. Mar. 31, 2003;—Am. 2004, Act 478, Imd. Eff. Dec. 28, 2004.

750.145d Use of internet or computer system; prohibited communication; violation; penalty; order to reimburse state or local governmental unit; definitions.

Sec. 145d. (1) A person shall not use the internet or a computer, computer program, computer network, or computer system to communicate with any person for the purpose of doing any of the following:

(a) Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under section 145a, 145c, 157c, 349, 350, 520b, 520c, 520d, 520e, or 520g, or section 5 of 1978 PA 33, MCL 722.675, in which the victim or intended victim is a minor or is believed by that person to be a minor.

(b) Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under section 411h or 411i.

(c) Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under chapter XXXIII or section 327, 327a, 328, or 411a(2).

(2) A person who violates this section is guilty of a crime as follows:

(a) If the underlying crime is a misdemeanor or a felony with a maximum term of imprisonment of less than 1 year, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $5,000.00, or both.

(b) If the underlying crime is a misdemeanor or a felony with a maximum term of imprisonment of 1 year or more but less than 2 years, 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.

(c) If the underlying crime is a misdemeanor or a felony with a maximum term of imprisonment of 2 years or more but less than 4 years, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

(d) If the underlying crime is a felony with a maximum term of imprisonment of 4 years or more but less than 10 years, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $5,000.00, or both.

(e) If the underlying crime is a felony punishable by a maximum term of imprisonment of 10 years or more but less than 15 years, 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.

(f) If the underlying crime is a felony punishable by a maximum term of imprisonment of 15 years or more or for life, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both.

(3) The court may order that a term of imprisonment imposed under this section be served consecutively to any term of imprisonment imposed for conviction of the underlying offense.

(4) 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, including the underlying offense.

(5) This section applies regardless of whether the person is convicted of committing, attempting to commit, conspiring to commit, or soliciting another person to commit the underlying offense.

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

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

(8) 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 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.

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(9) 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) "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.

(f) "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.

(g) "Minor" means an individual who is less than 18 years of age.

History: Add. 1999, Act 32, Eff. Aug. 1, 1999;—Am. 1999, Act 235, Eff. Mar. 10, 2000;—Am. 2000, Act 185, Eff. Sept. 18, 2000.

CHAPTER XXA
VULNERABLE ADULTS

750.145m Definitions.

Sec. 145m. As used in this chapter:

(a) "Adult foster care facility" means that term as defined in section 3 of the adult foster care facility licensing act, MCL 400.703.

(b) "Adult foster care facility licensing act" means 1979 PA 218, MCL 400.701 to 400.737.

(c) "Caregiver" means an individual who directly cares for or has physical custody of a vulnerable adult.

(d) "Developmental disability" means that term as defined in section 500 of the mental health code, MCL 330.1500.

(e) "Facility" means an adult foster care facility, a home for the aged, or a nursing home.

(f) "Home for the aged" means that term as defined in section 20106 of the public health code, MCL 333.20106.

(g) "Licensee" means that term as defined in section 5 of the adult foster care facility licensing act, MCL 400.705, or as defined in section 20108 of the public health code, MCL 333.20108. Licensee does not include a hospital, as that term is defined in section 20106 of the public health code, MCL 333.20106, except that part of a hospital that is a hospital long-term care unit, as that term is defined in section 20106 of the public health code, MCL 333.20106.

(h) "Mental health code" means 1974 PA 258, MCL 330.1001 to 330.2106.

(i) "Mental illness" means that term as defined in section 400 of the mental health code, MCL 330.1400.

(j) "Nursing home" means that term as defined in section 20109 of the public health code, MCL 333.20109 and a hospital long-term care unit as defined in section 20106 of the public health code, MCL 333.20106.

(k) "Other person with authority over a vulnerable adult" includes, but is not limited to, a person with authority over a vulnerable adult in that part of a hospital that is a hospital long-term care unit, but does not include a person with authority over a vulnerable adult in that part of a hospital that is not a hospital long-term care unit. As used in this subdivision, "hospital" and "hospital long-term care unit" mean those terms as defined in section 20106 of the public health code, MCL 333.20106.

(*l*) "Part 213, 215, or 217 of the public health code" means MCL 333.21301 to 333.21333, 333.21501 to 333.21568, and 333.21701 to 333.21799e.

(m) "Personal care" means assistance with eating, dressing, personal hygiene, grooming, or maintenance of a medication schedule as directed and supervised by a vulnerable adult's physician.

(n) "Physical harm" means any injury to a vulnerable adult's physical condition.

(o) "Public health code" means 1978 PA 368, MCL 333.1101 to 333.25211.

(p) "Reckless act or reckless failure to act" means conduct that demonstrates a deliberate disregard of the likelihood that the natural tendency of the act or failure to act is to cause physical harm, serious physical

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harm, or serious mental harm.

(q) "Resident" means an individual who resides in a facility.

(r) "Serious physical harm" means a physical injury that threatens the life of a vulnerable adult, that causes substantial bodily disfigurement, or that seriously impairs the functioning or well-being of the vulnerable adult.

(s) "Serious mental harm" means a mental injury that results in a substantial alteration of mental functioning that is manifested in a visibly demonstrable manner.

(t) "Social welfare act" means 1939 PA 280, MCL 400.1 to 400.119b.

(u) "Vulnerable adult" means 1 or more of the following:

(*i*) An individual age 18 or over who, because of age, developmental disability, mental illness, or physical disability requires supervision or personal care or lacks the personal and social skills required to live independently.

(*ii*) An adult as defined in section 3(1)(b) of the adult foster care facility licensing act, MCL 400.703.

(*iii*) An adult as defined in section 11(b) of the social welfare act, MCL 400.11.

History: Add. 1994, Act 149, Eff. Oct. 1, 1994;—Am. 1998, Act 38, Imd. Eff. Mar. 18, 1998.

750.145n Vulnerable adult abuse; first degree; second degree; third degree; fourth degree; authority to prevent vulnerable adult from being harmed or harming others not prohibited; applicability of section to act carried out by patient advocate.

Sec. 145n. (1) A caregiver is guilty of vulnerable adult abuse in the first degree if the caregiver intentionally causes serious physical harm or serious mental harm to a vulnerable adult. Vulnerable adult abuse in the first degree is a felony punishable by imprisonment for not more than 15 years or a fine of not more than $10,000.00, or both.

(2) A caregiver or other person with authority over the vulnerable adult is guilty of vulnerable adult abuse in the second degree if the reckless act or reckless failure to act of the caregiver or other person with authority over the vulnerable adult causes serious physical harm or serious mental harm to a vulnerable adult. Vulnerable adult abuse in the second degree is a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

(3) A caregiver is guilty of vulnerable adult abuse in the third degree if the caregiver intentionally causes physical harm to a vulnerable adult. Vulnerable adult abuse in the third degree is a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than $2,500.00, or both.

(4) A caregiver or other person with authority over the vulnerable adult is guilty of vulnerable adult abuse in the fourth degree if the reckless act or reckless failure to act of the caregiver or other person with authority over a vulnerable adult causes physical harm to a vulnerable adult. Vulnerable adult abuse in the fourth degree is a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(5) This section does not prohibit a caregiver or other person with authority over a vulnerable adult from taking reasonable action to prevent a vulnerable adult from being harmed or from harming others.

(6) This section does not apply to an act or failure to act that is carried out as directed by a patient advocate under a patient advocate designation executed in accordance with sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

History: Add. 1994, Act 149, Eff. Oct. 1, 1994;—Am. 2000, Act 66, Eff. Apr. 1, 2000;—Am. 2004, Act 559, Imd. Eff. Jan. 3, 2005.

750.145o Violation of act by operator or employee of unlicensed facility; violation as felony; penalty.

Sec. 145o. An operator of an unlicensed facility that is subject to licensure, or an employee or an individual acting on behalf of an unlicensed facility that is subject to licensure, who violates the adult foster care facility licensing act or part 213, 215, or 217 of the public health code or rules promulgated pursuant to the adult foster care facility licensing act or part 213, 215, or 217 of the public health code and whose violation is a proximate cause of the death of a vulnerable adult is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $75,000.00, or both.

History: Add. 1994, Act 149, Eff. Oct. 1, 1994.

750.145p Caregiver, other person with authority over vulnerable adult, or licensee; certain conduct as misdemeanor; penalty; certain disciplinary action not precluded by subsection (3); certain conduct as felony; penalty.

Sec. 145p. (1) A caregiver, other person with authority over a vulnerable adult, or a licensee who intentionally does 1 or more of the following is guilty of a misdemeanor punishable by imprisonment for not

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more than 2 years or a fine of not more than $25,000.00, or both:

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

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

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

(2) A caregiver, other person with authority over a vulnerable adult, or a licensee who intentionally retaliates or discriminates against a resident because the resident does 1 or more of the following is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than $25,000.00, or both:

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

(b) Makes a complaint against a facility.

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

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

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

(b) Makes a complaint against a facility.

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

(4) Subsection (3) does not preclude an employer from taking reasonable and appropriate disciplinary action against an employee.

(5) A caregiver, other person with authority over a vulnerable adult, or a licensee who has been convicted of violating this section who commits a second or subsequent violation of this section is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $75,000.00, or both.

History: Add. 1994, Act 149, Eff. Oct. 1, 1994.

750.145q Violation of other applicable laws.

Sec. 145q. A conviction or sentence imposed for a violation of this chapter does not preclude a conviction or sentence for a violation of any other applicable law.

History: Add. 1994, Act 149, Eff. Oct. 1, 1994.

750.145r Sentence to perform community service.

Sec. 145r. (1) In addition to or as an alternative to imposing a term of imprisonment under this chapter, the court may sentence the person to perform community service as follows:

(a) If the person is convicted of a felony, community service for not more than 160 days.

(b) If the person is convicted of a misdemeanor, community service for not more than 80 days.

(2) For purposes of this section, community service shall not include activities involving interaction with or care of vulnerable adults.

(3) A person sentenced to perform community service under this section shall not receive compensation, and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that community service.

History: Add. 1994, Act 149, Eff. Oct. 1, 1994.

CHAPTER XXI
CIVIL RIGHTS

750.146 Right to equal public accommodations; separation of facilities according to sex.

Sec. 146. All persons within the jurisdiction of this state shall be entitled to full and equal accommodations, advantages, facilities and privileges of inns, hotels, motels, government housing, restaurants, eating houses, barber shops, billiard parlors, stores, public conveyances on land and water, theatres, motion picture houses, public educational institutions, in elevators, on escalators, in all methods of

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air transportation and all other places of public accommodation, amusement, and recreation, subject only to the conditions and limitations established by law and applicable alike to all citizens and to all citizens alike, with uniform prices. Rooming facilities at educational, religious, charitable or nonprofit institutions or organizations, and restrooms and locker room facilities in places of public accommodation may be separated according to sex.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1937, Act 117, Eff. Oct. 29, 1937;—CL 1948, 750.146;—Am. 1952, Act 101, Eff. Sept. 18, 1952;—Am. 1956, Act 182, Eff. Aug. 11, 1956;—Am. 1972, Act 116, Imd. Eff. Apr. 18, 1972.

Former law: See section 1 of Act 130 of 1885, being How., § 9074a; CL 1897, § 11759; CL 1915, § 15570; CL 1929, § 16809; and Act 375 of 1919.

750.147 Denial of equal public accommodations.

Sec. 147. Any person being an owner, lessee, proprietor, manager, superintendent, agent or employee of any such place who shall directly or indirectly refuse, withhold from or deny to any person any of the accommodations, advantages, facilities and privileges thereof or directly or indirectly publish, circulate, issue, display, post or mail any written or printed communications, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such places shall be refused, withheld from or denied to any person on account of race, color, religion, national origin, sex or blindness or that any particular race, color, religion, national origin, sex or blindness is not welcome, objectionable or not acceptable, not desired or solicited, shall for every such offense be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than $100.00 or imprisoned for not less than 15 days or both such fine and imprisonment in the discretion of the court; and every person being an owner, lessee, proprietor, manager, superintendent, agent or employee of any such place, and who violates any of the provisions of this section, shall be liable to the injured party, in treble damages sustained, to be recovered in a civil action: Provided, however, That any right of action under this section shall be unassignable. In the event that any person violating this section is operating by virtue of a license issued by the state, or any municipal authority, the court, in addition to the penalty prescribed above, may suspend or revoke such license.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1937, Act 117, Eff. Oct. 29, 1937;—CL 1948, 750.147;—Am. 1956, Act 182, Eff. Aug. 11, 1956;—Am. 1972, Act 116, Imd. Eff. Apr. 18, 1972.

Former law: See section 2 of Act 130 of 1885, being How., § 9074b; CL 1897, § 11760; CL 1915, § 15571; CL 1929, § 16810; and Act 375 of 1919.

750.147a Discrimination in extending credit, granting loan, or rating person's creditworthiness; violation; penalty; civil liability.

Sec. 147a. (1) A person shall not discriminate in extending credit or granting a loan on the basis of race, color, religion, national origin, marital status, sex, or physical disability unless both the following apply:

(a) The person is a nonprofit corporation whose members share 1 of the following:

(*i*) The same racial, religious, ethnic, marital, or sexual characteristic.

(*ii*) The same physical disability.

(*iii*) A blend of the characteristics described in subparagraphs (*i*) and (*ii*).

(b) The person extends credit or grants a loan only to its members.

(2) A person shall not discriminate in the rating of a person's creditworthiness on the basis of race, color, religion, national origin, marital status, sex, or physical disability.

(3) A person who violates the provisions of subsection (1) or (2) is guilty of a misdemeanor punishable by a fine of not more than $1,000.00.

(4) A person who violates the provisions of subsection (1) or (2) is liable in a civil action to the injured party for the amount of $200.00 or for damages, whichever is greater. Actions brought pursuant to rule 3.501 of the Michigan court rules are limited to those damages provided in this subsection. The prevailing party in the civil action shall be entitled to recover court costs and reasonable attorney fees. The right of action under this subsection is unassignable.

History: Add. 1974, Act 246, Imd. Eff. Aug. 1, 1974;—Am. 1998, Act 38, Imd. Eff. Mar. 18, 1998.

750.147b Ethnic intimidation.

Sec. 147b. (1) A person is guilty of ethnic intimidation if that person maliciously, and with specific intent to intimidate or harass another person because of that person's race, color, religion, gender, or national origin, does any of the following:

(a) Causes physical contact with another person.

(b) Damages, destroys, or defaces any real or personal property of another person.

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(c) Threatens, by word or act, to do an act described in subdivision (a) or (b), if there is reasonable cause to believe that an act described in subdivision (a) or (b) will occur.

(2) Ethnic intimidation is a felony punishable by imprisonment for not more than 2 years, or by a fine of not more than $5,000.00, or both.

(3) Regardless of the existence or outcome of any criminal prosecution, a person who suffers injury to his or her person or damage to his or her property as a result of ethnic intimidation may bring a civil cause of action against the person who commits the offense to secure an injunction, actual damages, including damages for emotional distress, or other appropriate relief. A plaintiff who prevails in a civil action brought pursuant to this section may recover both of the following:

(a) Damages in the amount of 3 times the actual damages described in this subsection or $2,000.00, whichever is greater.

(b) Reasonable attorney fees and costs.

History: Add. 1988, Act 371, Eff. Mar. 30, 1989.

Popular name: Ethnic Intimidation

Popular name: Hate Crimes

750.148 Civil rights; race or color not to disqualify for jury service.

Sec. 148. Race or color not to disqualify for jury service. No citizen of the state of Michigan, possessing all other qualifications which are or may be prescribed by law, shall be disqualified to serve as grand or petit juror in any court of said state on account of race, creed or color, and any officer or other person charged with any duty in the drawing, summoning, and selection of persons who shall exclude from, fail, neglect and/or refuse, by words, trick and/or artifice, to draw the name of, summon and/or select any citizen for jury service because of his or her race, creed and/or color, shall be guilty of a misdemeanor and upon conviction shall be fined not less than 50 dollars or shall be imprisoned for a period of not less than 30 days, or both such fine and imprisonment in the discretion of the court.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1937, Act 117, Eff. Oct. 29, 1937;—CL 1948, 750.148.

Former law: See section 3 of Act 130 of 1885, being How., § 9074c; CL 1897, § 11761; CL 1915, § 15572; and CL 1929, § 16811.

CHAPTER XXII
COMPOUNDING OFFENSES

750.149 Compounding or concealing offense; penalty.

Sec. 149. Any person having knowledge of the commission of any offense punishable with death, or by imprisonment in the state prison, who shall take any money, or any gratuity or reward, or any engagement therefor, upon an agreement or understanding, express or implied, to compound or conceal such offense, or not to prosecute therefor, or not to give evidence thereof, shall, when such offense of which he or she has knowledge was punishable with death, or imprisonment in the state prison for life, is guilty of a felony; and where the offense, of which he or she so had knowledge, was punishable in any other manner, he or she is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.149;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 20 of Ch. 156 of R.S. 1846, being CL 1857, § 5839; CL 1871, § 7672; How., § 9254; CL 1897, § 11324; CL 1915, § 14991; and CL 1929, § 16582.

CHAPTER XXIII
CONCEALING DEATH OF INFANT CHILD

750.150 Issue; concealment of death by mother.

Sec. 150. If any unmarried woman conceals the death of any issue of her body, so that it may not be known whether such issue was born alive or not, or whether it was not murdered, she shall be punished by a fine not exceeding $1,000.00 or imprisonment for not more than 1 year.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.150;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 8 of Ch. 158 of R.S. 1846, being CL 1857, § 5863; CL 1871, § 7698; How., § 9284; CL 1897, § 11695; CL 1915, § 15469; and CL 1929, § 16824.

CHAPTER XXIV
CONSPIRACY

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750.151 Contracts; conspiracy; penalty.

Sec. 151. All contracts, agreements, understandings, and combinations made, entered into, or knowingly assented to, by and between any parties capable of making a contract or agreement which would be valid at law or in equity, the purpose or object or intent of which shall be to limit, control, or in any manner to restrict or regulate the amount of production or the quantity of any article or commodity to be raised, or produced by mining, manufacture, agriculture, or any other branch of business or labor, or to enhance, control or regulate the market price thereof, or in any manner to prevent or restrict free competition in the production or sale of any such article or commodity, shall be illegal and void, and every such contract, agreement, understanding, and combination shall constitute a criminal conspiracy. And every person who, for himself or herself personally, or as a member, or in the name of a partnership, or as a member, agent, or officer of a corporation, or of any association for business purposes of any kind, who shall enter into or knowingly consent to any such void and illegal contract, agreement, understanding, or combination, shall be deemed a party to such conspiracy.

All parties so offending shall be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 6 months or a fine of not more than $750.00. And the prosecution for offenses under this section may be instituted and the trial had in any county where any of the conspirators become parties to such conspiracy, or in which any 1 of the conspirators shall reside. This section shall in no manner invalidate or affect contracts for what is known and recognized as common law and in equity as contracts for the "good will of a trade or business"; but all such contracts shall be left to stand upon the same terms and within the same limitations recognized at common law and in equity.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.1;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 225 of 1889, being How., § 9354j; CL 1897, § 11377; CL 1915, § 15095; and CL 1929, § 16674.

750.152 Illegal contracts.

Sec. 152. Certain contracts illegal wherever made—Every contract, agreement, understanding, and combination declared void and illegal by the first section of this chapter shall be equally void and illegal within this state, whether made and entered into within or without the state.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.152.

Former law: See section 2 of Act 225 of 1889, being How., § 9354k; CL 1897, § 11378; CL 1915, § 15096; and CL 1929, § 16675.

750.153 Illegal contracts; carrying into effect.

Sec. 153. The carrying into effect, in whole or in part, of any such illegal contract, agreement, understanding, or combination as mentioned in the first section of this chapter and every act that shall be done for that purpose by any of the parties or through their agency or the agency of any 1 of them, constitutes a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.153;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 3 of Act 225 of 1889, being How., § 9354l; CL 1897, § 11379; CL 1915, § 15097; and CL 1929, § 16676.

750.154 Violation by corporation forfeits charter.

Sec. 154. Violation by corporation forfeits charter—Any corporation now or hereafter organized under the laws of this state, which shall enter into any contract, agreement, understanding or combination declared illegal and criminal by the first section of this chapter, or shall do any act towards or for the purpose of carrying the same into effect in whole or in part, and which shall not within 30 days from the time when this chapter shall take effect, withdraw its assent thereto and repudiate the same and file in the office of the secretary of state such refusal and repudiation under its corporate seal, shall forfeit its charter and all its rights and franchises thereunder.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.154.

Former law: See section 4 of Act 225 of 1889, being How., § 9354m; CL 1897, § 11380; CL 1915, § 15098; and CL 1929, § 16677.

750.155 Violation by corporation forfeits charter; quo warranto.

Sec. 155. Quo warranto against offending corporations—It shall be the duty of the attorney general upon his own relation, or upon the relation of any private person, whenever he shall have good reasons to believe that the same can be established by proof, to file an information in the nature of a quo warranto against any corporation offending against any of the provisions of this chapter; and thereupon the same proceedings shall be had as provided by chapter 38 of Act No. 314 of the Public Acts of 1915, being sections 15271 to 15300 inclusive of the Compiled Laws of 1929, relating to proceedings by information in the nature of quo warranto, against corporations offending against any of the provisions of the act or acts creating, altering or renewing such corporations, and in other cases.

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History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.155.

Compiler's note: Act 314 of 1915, referred to in this section, was repealed by Act 236 of 1961. See now § 600.101 et seq.

Former law: See section 5 of Act 225 of 1889, being How., § 9354n; CL 1897, § 11381; CL 1915, § 15099; and CL 1929, § 16678.

750.156 Exemptions to chapter.

Sec. 156. Exemptions—The provisions of this chapter shall not apply to agricultural products or live stock while in the hands of the producer or raiser, nor to the services of laborers or artisans who are formed into societies or organizations for the benefit and protection of their members.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.156.

Former law: See section 6 of Act 225 of 1889, being How., § 9354o; CL 1897, § 11382; CL 1915, § 15100; CL 1929, § 16679.

750.157 Providing incriminating testimony or evidence; use of truthful testimony, evidence, or other information against witness in criminal case.

Sec. 157. A person shall not be excused from attending and testifying or producing any books, papers, or other documents before a court or magistrate upon an investigation, proceeding, or trial for a violation of this chapter on the ground that the testimony or evidence may tend to degrade or incriminate the person. Truthful testimony, evidence, or other truthful information compelled under this section and any information derived directly or indirectly from that truthful testimony, evidence, or other truthful information shall not be used against the witness in a criminal case, except for impeachment purposes or in a prosecution for perjury or otherwise failing to testify or produce evidence as required.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.157;—Am. 1999, Act 251, Imd. Eff. Dec. 28, 1999.

750.157a Conspiracy to commit offense or legal act in illegal manner; penalty.

Sec. 157a. Any person who conspires together with 1 or more persons to commit an offense prohibited by law, or to commit a legal act in an illegal manner is guilty of the crime of conspiracy punishable as provided herein:

(a) Except as provided in paragraphs (b), (c) and (d) if commission of the offense prohibited by law is punishable by imprisonment for 1 year or more, the person convicted under this section shall be punished by a penalty equal to that which could be imposed if he had been convicted of committing the crime he conspired to commit and in the discretion of the court an additional penalty of a fine of $10,000.00 may be imposed.

(b) Any person convicted of conspiring to violate any provision of this act relative to illegal gambling or wagering or any other acts or ordinances relative to illegal gambling or wagering shall be punished by imprisonment in the state prison for not more than 5 years or by a fine of not more than $10,000.00, or both such fine and imprisonment.

(c) If commission of the offense prohibited by law is punishable by imprisonment for less than 1 year, except as provided in paragraph (b), the person convicted under this section shall be imprisoned for not more than 1 year nor fined more than $1,000.00, or both such fine and imprisonment.

(d) Any person convicted of conspiring to commit a legal act in an illegal manner shall be punished by imprisonment in the state prison for not more than 5 years or by a fine of not more than $10,000.00, or both such fine and imprisonment in the discretion of the court.

History: Add. 1966, Act 296, Eff. Mar. 10, 1967.

Constitutionality: A mandatory life sentence imposed for conspiracy to commit first-degree murder, even if nonparolable, is not so excessive as to constitute cruel and unusual punishment; nor does it violate the Equal Protection Clauses of the Michigan and United States Constitutions. People v. Fernandez, 427 Mich. 321, 398 N.W.2d 311 (1986).

750.157b Solicitation to commit murder or felony; penalty; affirmative defense.

Sec. 157b. (1) For purposes of this section, "solicit" means to offer to give, promise to give, or give any money, services, or anything of value, or to forgive or promise to forgive a debt or obligation.

(2) A person who solicits another person to commit murder, or who solicits another person to do or omit to do an act which if completed would constitute murder, is guilty of a felony punishable by imprisonment for life or any term of years.

(3) Except as provided in subsection (2), a person who solicits another person to commit a felony, or who solicits another person to do or omit to do an act which if completed would constitute a felony, is punishable as follows:

(a) If the offense solicited is a felony punishable by imprisonment for life, or for 5 years or more, the person is guilty of a felony punishable by imprisonment for not more than 5 years or by a fine not to exceed $5,000.00, or both.

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(b) If the offense solicited is a felony punishable by imprisonment for a term less than 5 years or by a fine, the person is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or by a fine not to exceed $1,000.00, or both, except that a term of imprisonment shall not exceed 1/2 of the maximum imprisonment which can be imposed if the offense solicited is committed.

(4) It is an affirmative defense to a prosecution under this section that, under circumstances manifesting a voluntary and complete renunciation of his or her criminal purpose, the actor notified the person solicited of his or her renunciation and either gave timely warning and cooperation to appropriate law enforcement authorities or otherwise made a substantial effort to prevent the performance of the criminal conduct commanded or solicited, provided that conduct does not occur. The defendant shall establish by a preponderance of the evidence the affirmative defense under this subsection.

History: Add. 1968, Act 308, Eff. July 1, 1968;—Am. 1986, Act 124, Eff. July 1, 1986.

Constitutionality: Successive prosecutions for obstruction of justice under federal law, and inducing murder under § 750.157b, arising out of the same criminal act do not violate the guarantee against double jeopardy in the Michigan Constitution. People v. Formicola, 407 Mich. 293, 284 N.W.2d 334 (1979).

750.157c Recruiting, inducing, soliciting, or coercing minor to commit felony.

Sec. 157c. A person 17 years of age or older who recruits, induces, solicits, or coerces a minor less than 17 years of age to commit or attempt to commit an act that would be a felony if committed by an adult is guilty of a felony and shall be punished by imprisonment for not more than the maximum term of imprisonment authorized by law for that act. The person may also be punished by a fine of not more than 3 times the amount of the fine authorized by law for that act.

History: Add. 1988, Act 27, Eff. June 1, 1988.

CHAPTER XXIVA
CREDIT CARDS

750.157m Definitions.

Sec. 157m. As used in this chapter:

(a) "Credit card" means either of the following:

(*i*) Any instrument or device which is sold, issued, or otherwise distributed by a business organization or financial institution for the use of the person or organization identified on the instrument or device for obtaining goods, property, services, or anything of value on credit.

(*ii*) An instrument or device which is issued or otherwise distributed by an organization for the use of the person identified on the instrument or device for obtaining health care services or goods or reimbursement or payment for health care services or goods. As used in this subparagraph, "organization" means any of the following:

(A) A dental care corporation incorporated under Act No. 125 of the Public Acts of 1963, being sections 550.351 to 550.373 of the Michigan Compiled Laws.

(B) A health care corporation incorporated under the nonprofit health care corporation reform act, Act No. 350 of the Public Acts of 1980, being sections 550.1101 to 550.1704 of the Michigan Compiled Laws.

(C) A health maintenance organization licensed under article 17 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.20101 to 333.22181 of the Michigan Compiled Laws.

(D) An insurer as defined in section 106 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being section 500.106 of the Michigan Compiled Laws.

(E) A third party administrator operating under a certificate of authority issued by the commissioner pursuant to the third party administrator act, Act No. 218 of the Public Acts of 1984, being sections 550.901 to 550.962 of the Michigan Compiled Laws.

(b) "Deposit account" includes share, deposit, member, and savings accounts of financial institutions.

(c) "Credit account" means the account through which a business organization or financial institution allows a person or organization to obtain goods, property, services, or any other thing of value on credit.

(d) "Deviceholder" means either of the following:

(*i*) The person or organization who requests a financial transaction device and to whom or for whose benefit a financial transaction device is subsequently issued.

(*ii*) The person or organization to whom a financial transaction device was issued and who used or accepted a financial transaction device, whether the issuance of the financial transaction device was requested or not.

(e) "Financial institution" means a bank, savings and loan association, or credit union, and includes a corporation wholly owned by a financial institution or by the holding company parent of a financial

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institution.

(f) "Financial transaction device" means any of the following:

(*i*) An electronic funds transfer card.

(*ii*) A credit card.

(*iii*) A debit card.

(*iv*) A point-of-sale card.

(*v*) Any instrument, device, card, plate, code, account number, personal identification number, or a record or copy of a code, account number, or personal identification number or other means of access to a credit account or deposit account, or a driver's license or state identification card used to access a proprietary account, other than access originated solely by a paper instrument, that can be used alone or in conjunction with another access device, for any of the following purposes:

(A) Obtaining money, cash refund or credit account, credit, goods, services, or any other thing of value.

(B) Certifying or guaranteeing to a person or business the availability to the deviceholder of funds on deposit to honor a draft or check payable to the order of that person or business.

(C) Providing the deviceholder access to a deposit account for the purpose of making deposits, withdrawing funds, transferring funds between deposit accounts, obtaining information pertaining to a deposit account, or making an electronic funds transfer as defined in section 3(4) of Act No. 322 of the Public Acts of 1978, being section 488.3 of the Michigan Compiled Laws.

(g) "Proprietary account" means the account which is maintained by a business organization in the name of an individual person or organization and through which the business organization allows the person or organization to obtain goods, property, services, or any other thing of value on credit.

History: Add. 1967, Act 255, Eff. Nov. 2, 1967;—Am. 1987, Act 276, Eff. Mar. 30, 1988;—Am. 1988, Act 335, Eff. Mar. 30, 1989.

750.157n Stealing, taking, or removing financial transaction device; possession of fraudulent or altered financial transaction device.

Sec. 157n. (1) A person who steals knowingly takes, or knowingly removes a financial transaction device from the person or possession of a deviceholder, or who knowingly retains, knowingly possesses, knowingly secretes, or knowingly uses a financial transaction device without the consent of the deviceholder, is guilty of a felony.

(2) A person who knowingly possesses a fraudulent or altered financial transaction device is guilty of a felony.

History: Add. 1967, Act 255, Eff. Nov. 2, 1967;—Am. 1987, Act 276, Eff. Mar. 30, 1988.

750.157p Possession or control of another's financial transaction device with intent to use, deliver, circulate, or sell.

Sec. 157p. A person who has in his or her possession, or under his or her control, or who receives from another person a financial transaction device with the intent to use, deliver, circulate, or sell the financial transaction device, or to permit, cause, or procure the financial transaction device to be used, delivered, circulated, or sold, knowing the possession, control, receipt, use, delivery, circulation, or sale to be without the consent of the deviceholder, is guilty of a felony.

History: Add. 1967, Act 255, Eff. Nov. 2, 1967;—Am. 1987, Act 276, Eff. Mar. 30, 1988.

750.157q Delivery, circulation, or sale of financial transaction device obtained or held under proscribed circumstances.

Sec. 157q. A person who delivers, circulates, or sells a financial transaction device which was obtained or held by that person under circumstances proscribed under section 157n, 157p, or 157v, or uses, permits, causes, or procures the financial transaction device to be used, delivered, circulated, or sold, knowing the device to have been obtained or held under circumstances proscribed under section 157n, 157p, or 157v is guilty of a felony.

History: Add. 1967, Act 255, Eff. Nov. 2, 1967;—Am. 1987, Act 276, Eff. Mar. 30, 1988.

750.157r Forgery, alteration, simulation, or counterfeiting of financial transaction device.

Sec. 157r. A person who, with intent to defraud, forges, materially alters, simulates, or counterfeits a financial transaction device is guilty of a felony.

History: Add. 1967, Act 255, Eff. Nov. 2, 1967;—Am. 1987, Act 276, Eff. Mar. 30, 1988.

750.157s Use of revoked or cancelled financial transaction device with intent to defraud.

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Sec. 157s. (1) A person who, for the purpose of obtaining goods, property, services, or anything of value, knowingly and with intent to defraud uses 1 or more financial transaction devices that have been revoked or canceled by the issuer of the device or devices, as distinguished from expired, and has received notice of the revocation or cancellation is guilty of a crime as follows:

(a) If the value of the goods, property, services, or anything of value is less than $100.00, as follows:

(*i*) For a first offense, a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(*ii*) For an offense following 1 or more prior convictions under this section or a local ordinance substantially corresponding to this section, 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 value of the goods, property, services, or anything of value is $100.00 or more but less than $500.00, as follows:

(*i*) For a first or second offense, a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00 or 3 times the aggregate value of the goods, property, services, or anything of value, whichever is greater, or both imprisonment and a fine.

(*ii*) For an offense following 2 or more prior convictions under this section, a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a).

(c) If the value of the goods, property, services, or anything of value is $500.00 or more, a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00 or 3 times the aggregate value of the goods, property, services, or anything of value, whichever is greater, or both imprisonment and a fine.

(2) The values of goods, property, services, or things of value obtained in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of goods, property, services, or things of value obtained.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: Add. 1967, Act 255, Eff. Nov. 2, 1967;—Am. 1968, Act 183, Eff. Nov. 15, 1968;—Am. 1987, Act 276, Eff. Mar. 30, 1988;—Am. 1998, Act 312, Eff. Jan. 1, 1999.

750.157t Sales to or services performed for violators.

Sec. 157t. Any person who sells or delivers goods or property or anything of value, or renders any service to any other person knowing that such other person has committed or is committing any act prohibited by this chapter shall be guilty of a felony.

History: Add. 1967, Act 255, Eff. Nov. 2, 1967.

750.157u Causing deviceholder to be charged or overcharged.

Sec. 157u. A person to whom a deviceholder presents a financial transaction device for the purpose of obtaining goods, property, services, or anything of value on credit, or for any purpose for which the device may be used, who, by using the financial transaction device, by forging or aiding in the forgery of the deviceholder's signature, or by filling out or completing an application or form to be furnished to the issuer of the financial transaction device, causes the deviceholder to be charged for a purchase or other transaction that was not authorized by the deviceholder, to be overcharged for a purchase or other transaction that was authorized by the deviceholder, or to otherwise incur a financial loss, is guilty of a felony.

History: Add. 1967, Act 255, Eff. Nov. 2, 1967;—Am. 1987, Act 276, Eff. Mar. 30, 1988.

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750.157v False statement of identity for purpose of procuring issuance of financial transaction device.

Sec. 157v. A person who, knowingly and with intent to defraud, makes or causes to be made, directly or indirectly, a false statement in writing regarding his or her identity or that of any other person for the purpose of procuring the issuance of a financial transaction device, is guilty of a felony.

History: Add. 1987, Act 276, Eff. Mar. 30, 1988.

750.157w Fraudulent use of financial transaction device to withdraw or transfer funds in violation of contractual limitations.

Sec. 157w. (1) A person who knowingly and with intent to defraud uses a financial transaction device to withdraw or transfer funds from a deposit account in violation of the contractual limitations imposed on the amount or frequency of withdrawals or transfers or in an amount exceeding the funds then on deposit in the account is guilty of a crime as follows:

(a) A misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00 or 3 times the amount of funds withdrawn or transferred, whichever is greater, or both imprisonment and a fine, if the amount of the funds withdrawn or transferred is less than $200.00.

(b) A misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the amount of funds withdrawn or transferred, whichever is greater, or both imprisonment and a fine, if any of the following apply:

(*i*) The amount of the funds withdrawn or transferred is $200.00 or more but less than $1,000.00.

(*ii*) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(c) A felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00 or 3 times the amount of funds withdrawn or transferred, whichever is greater, or both imprisonment and a fine, if any of the following apply:

(*i*) The amount of the funds withdrawn or transferred is $1,000.00 or more but less than $20,000.00.

(*ii*) The person violates subdivision (b)(*i*) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(d) A felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the amount of funds withdrawn or transferred, whichever is greater, or both imprisonment and a fine, if any of the following apply:

(*i*) The amount of funds withdrawn or transferred is $20,000.00 or more.

(*ii*) The person violates subdivision (c)(*i*) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(2) The amounts of funds withdrawn or transferred in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total amount of funds withdrawn or transferred.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: Add. 1987, Act 276, Eff. Mar. 30, 1988;—Am. 1998, Act 312, Eff. Jan. 1, 1999.

CHAPTER XXV

CRIME AGAINST NATURE OR SODOMY

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750.158 Crime against nature or sodomy; penalty.

Sec. 158. Any person who shall commit the abominable and detestable crime against nature either with mankind or with any animal shall be guilty of a felony, punishable by imprisonment in the state prison not more than 15 years, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.158;—Am. 1952, Act 73, Eff. Sept. 18, 1952.

Former law: See section 16 of Ch. 158 of R.S. 1846, being CL 1857, § 5871; CL 1871, § 7706; How., § 9292; CL 1897, § 11705; CL 1915, § 15479; CL 1929, § 16831; and Act 57 of 1923.

750.159 Emission need not be proved.

Sec. 159. In any prosecution for sodomy, it shall not be necessary to prove emission, and any sexual penetration, however slight, shall be deemed sufficient to complete the crime specified in the next preceding section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.159;—Am. 1952, Act 73, Eff. Sept. 18, 1952.

CHAPTER XXVA
CRIMINAL ENTERPRISES

750.159f Definitions generally.

Sec. 159f. As used in this chapter:

(a) "Enterprise" includes an individual, sole proprietorship, partnership, corporation, limited liability company, trust, union, association, governmental unit, or other legal entity or a group of persons associated in fact although not a legal entity. Enterprise includes illicit as well as licit enterprises.

(b) "Instrumentality" means an interest, real or personal property, or other thing of value, the use of which contributes directly and materially to the commission of an offense included in the definition of racketeering.

(c) "Pattern of racketeering activity" means not less than 2 incidents of racketeering to which all of the following characteristics apply:

(*i*) The incidents have the same or a substantially similar purpose, result, participant, victim, or method of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated acts.

(*ii*) The incidents amount to or pose a threat of continued criminal activity.

(*iii*) At least 1 of the incidents occurred within this state on or after the effective date of the amendatory act that added this section, and the last of the incidents occurred within 10 years after the commission of any prior incident, excluding any period of imprisonment served by a person engaging in the racketeering activity.

(d) "Person" means an individual, sole proprietorship, partnership, cooperative, association, corporation, limited liability company, personal representative, receiver, trustee, assignee, or other legal or illegal entity.

(e) "Proceeds" means any real, personal, or intangible property obtained through the commission of an offense included in the definition of racketeering, including any appreciation in the value of the property.

(f) "Prosecuting agency" means the attorney general of this state, or his or her designee, or the prosecuting attorney of a county, or his or her designee.

History: Add. 1995, Act 187, Eff. Apr. 1, 1996.

750.159g "Racketeering" defined.

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

(a) A felony violation of section 8 of the tobacco products tax act, 1993 PA 327, MCL 205.428, concerning tobacco product taxes, or section 9 of former 1947 PA 265, concerning cigarette taxes.

(b) A violation of section 11151(3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11151, or section 48(3) of former 1979 PA 64, concerning felonious disposal of hazardous waste.

(c) A felony violation of part 74 or section 17766a of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461 and 333.17766a, concerning controlled substances or androgenic anabolic steroids.

(d) A felony violation of section 60 of the social welfare act, 1939 PA 280, MCL 400.60, concerning welfare fraud.

(e) A violation of section 4, 5, or 7 of the medicaid false claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607, concerning medicaid fraud.

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(f) A felony violation of section 18 of the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.218, concerning the business of gaming.

(g) A violation of section 409 of the uniform securities act, 1964 PA 265, MCL 451.809, concerning securities fraud.

(h) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675 and 722.677, concerning the display or dissemination of obscene matter to minors.

(i) A felony violation of section 72, 73, 74, 75, or 77, concerning arson.

(j) A violation of section 93, 94, 95, or 96, concerning bank bonds, bills, notes, and property.

(k) A violation of section 110 or 110a, concerning breaking and entering or home invasion.

(*l*) A violation of section 117, 118, 119, 120, 121, or 124, concerning bribery.

(m) A violation of section 120a, concerning jury tampering.

(n) A violation of section 145c, concerning child sexually abusive activity or material.

(o) A felony violation of section 157n, 157p, 157q, 157r, 157s, 157t, or 157u, concerning credit cards or financial transaction devices.

(p) A felony violation of section 174, 175, 176, 180, 181, or 182, concerning embezzlement.

(q) A felony violation of chapter XXXIII, concerning explosives and bombs.

(r) A violation of section 213, concerning extortion.

(s) A felony violation of section 218, concerning false pretenses.

(t) A felony violation of section 223(2), 224(1)(a), (b), or (c), 224b, 224c, 224e(1), 226, 227, 234a, 234b, or 237a, concerning firearms or dangerous weapons.

(u) A felony violation of chapter XLI, concerning forgery and counterfeiting.

(v) A violation of section 271, 272, 273, or 274, concerning securities fraud.

(w) A violation of section 300a, concerning food stamps or coupons or access devices.

(x) A violation of section 301, 302, 303, 304, 305, 305a, or 313, concerning gambling.

(y) A violation of section 316 or 317, concerning murder.

(z) A violation of section 330, 331, or 332, concerning horse racing.

(aa) A violation of section 349, 349a, or 350, concerning kidnapping.

(bb) A felony violation of chapter LII, concerning larceny.

(cc) A violation of section 411k, concerning money laundering.

(dd) A violation of section 422, 423, 424, or 425, concerning perjury or subornation of perjury.

(ee) A violation of section 452, 455, 457, 458, or 459, concerning prostitution.

(ff) A violation of section 529, 529a, 530, or 531, concerning robbery.

(gg) A felony violation of section 535, 535a, or 536a, concerning stolen, embezzled, or converted property.

(hh) A violation of chapter LXXXIII-A, concerning terrorism.

(ii) A violation of section 5 of 1984 PA 343, MCL 752.365, concerning obscenity.

(jj) An offense committed within this state or another state that constitutes racketeering activity as defined in section 1961(1) of title 18 of the United States Code, 18 U.S.C. 1961.

(kk) An offense committed within this state or another state in violation of a law of the United States that is substantially similar to a violation listed in subdivisions (a) through (ii).

(*ll*) An offense committed in another state in violation of a statute of that state that is substantially similar to a violation listed in subdivisions (a) through (ii).

History: Add. 1995, Act 187, Eff. Apr. 1, 1996;—Am. 1997, Act 75, Imd. Eff. July 17, 1997;—Am. 2002, Act 124, Eff. Apr. 22, 2002.

750.159h "Records" or "documenting materials" and "substituted proceeds" defined.

Sec. 159h. As used in this chapter:

(a) "Records" or "documentary materials" means a book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic tape, computer program or printout, any other data compilation from which information can be obtained or translated into usable form, or any other functionally similar tangible item.

(b) "Substituted proceeds" means any real, personal, or intangible property obtained or any gain realized by the sale or exchange of proceeds.

History: Add. 1995, Act 187, Eff. Apr. 1, 1996.

750.159i Prohibited conduct.

Sec. 159i. (1) A person employed by, or associated with, an enterprise shall not knowingly conduct or participate in the affairs of the enterprise directly or indirectly through a pattern of racketeering activity.

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(2) A person shall not knowingly acquire or maintain an interest in or control of an enterprise or real or personal property used or intended for use in the operation of an enterprise, directly or indirectly, through a pattern of racketeering activity.

(3) A person who has knowingly received any proceeds derived directly or indirectly from a pattern of racketeering activity shall not directly or indirectly use or invest any part of those proceeds, or any proceeds derived from the use or investment of any of those proceeds, in the establishment or operation of an enterprise, or the acquisition of any title to, or a right, interest, or equity in, real or personal property used or intended for use in the operation of an enterprise.

(4) A person shall not conspire or attempt to violate subsection (1), (2), or (3).

History: Add. 1995, Act 187, Eff. Apr. 1, 1996.

750.159j Violation as felony; penalties; imposition of costs; order to criminally forfeit property; additional authority of court; conditions for entering order of criminal forfeiture; attorney fees; determination of extent of property; property not reachable; retention of property by law enforcement agency; seizure; other criminal or civil remedies not precluded.

Sec. 159j. (1) A person who violates section 159i is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $100,000.00, or both.

(2) In addition to any penalty imposed under subsection (1), the court may do 1 or more of the following with respect to a person convicted under section 159i:

(a) Order the person to pay court costs.

(b) Order the person to pay to the state or local law enforcement agency that handled the investigation and prosecution the costs of the investigation and prosecution that are reasonably incurred.

(3) The court shall hold a hearing to determine the amount of court costs and other costs to be imposed under subsection (2).

(4) The court shall order a person convicted of a violation of section 159i to criminally forfeit to the state any real, personal, or intangible property in which he or she has an interest and that was used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of section 159i, including any property constituting an interest in, means of control over, or influence over the enterprise involved in the violation and any property constituting proceeds derived from the violation. The court's authority under this subsection also includes, but is not limited to, the authority to do any of the following:

(a) Order the convicted person to divest himself or herself of any interest, direct or indirect, in the enterprise.

(b) Impose reasonable restrictions on the future activities or investments of the convicted person, including prohibiting the convicted person from engaging in the same type of endeavor as the enterprise engaged in.

(c) Order the dissolution or reorganization of an enterprise upon finding that, for the prevention of future criminal activity, the public interest requires the dissolution or reorganization. This subdivision shall not apply to the extent such action is preempted by the national labor relations act, 29 U.S.C. 151 et seq.

(d) Order the suspension or revocation of a license, permit, or prior approval granted to an enterprise by any agency of the state, county, or other political subdivision upon finding that, for the prevention of future criminal activity, the public interest requires the suspension or revocation.

(e) Order the surrender of the charter of a corporation organized under the laws of this state or the revocation of a certificate authorizing a foreign corporation to conduct business within this state upon finding that the board of directors or a managerial agent acting on behalf of the corporation, in conducting the affairs of the corporation, authorized or engaged in racketeering and, for the prevention of future criminal activity, that the public interest requires that the charter or certificate of the corporation be surrendered or revoked.

(5) A sentence ordering criminal forfeiture pursuant to this section shall not be entered unless the indictment or information alleges the extent of the property subject to forfeiture, or unless the sentence requires the forfeiture of property that was not reasonably foreseen to be subject to forfeiture at the time of the indictment or information, if the prosecuting agency gave prompt notice to the defendant of the property not reasonably foreseen to be subject to forfeiture when it was discovered to be forfeitable.

(6) Reasonable attorney fees for representation in an action under this chapter are not subject to criminal forfeiture under this chapter.

(7) At sentencing and following a hearing, the court shall determine the extent of the property subject to forfeiture, if any, and shall enter an order of forfeiture. The court may base its determination on evidence in the trial record.

(8) If any property included in the order of forfeiture pursuant to this section cannot be located or has been sold to a bona fide purchaser for value, placed beyond the jurisdiction of the court, substantially diminished in

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value by the conduct of the defendant, or commingled with other property that cannot be divided without difficulty or undue injury to innocent persons, the court shall order forfeiture of any other reachable property of the defendant up to the value of the property that is unreachable.

(9) All property ordered forfeited pursuant to this section shall be retained by the law enforcement agency that seized it for disposal pursuant to section 159r.

(10) An order of criminal forfeiture entered under this section shall authorize an appropriate law enforcement agency to seize the property declared criminally forfeited under this section upon those terms and conditions relating to the time and manner of seizure the court determines proper.

(11) Criminal penalties under this section are not mutually exclusive and do not preclude the application of any other criminal or civil remedy under this section or any other provision of law.

History: Add. 1995, Act 187, Eff. Apr. 1, 1996.

750.159k Order of criminal forfeiture; notice; hearing to determine validity of claim of property interest; petition; consolidation of hearings; testimony and evidence; amendment of order.

Sec. 159k. (1) Upon the entry of the order of criminal forfeiture pursuant to section 159j, the court shall cause notice of the order to be sent by certified mail to all persons known to have, or appearing to have, an interest in the property to be forfeited. To assist the court in determining whom to notify, the prosecuting agency shall conduct a search of county, state, and federal public records where notice of liens and security interests are normally recorded. If the name and address of the person are not reasonably ascertainable or delivery of the notice cannot reasonably be accomplished, the notice shall be published in a newspaper of general circulation in the county in which the prosecution occurred for 10 successive publishing days. Proof of written notice or publication shall be filed with the court entering the order of criminal forfeiture.

(2) Within 21 days after receipt of the notice or after the date of the completion of the publication under subsection (1), a person, other than the defendant, who claims an interest in the property subject to criminal forfeiture may petition the court for a hearing to determine the validity of the claim. The petition shall be signed and sworn to by the petitioner and shall set forth the nature and extent of the petitioner's interest in the property, the date and circumstances of the petitioner's acquisition of the interest, any additional allegations supporting the claim, and the relief sought. The petitioner shall furnish the prosecuting agency with a copy of the petition.

(3) To the extent practicable and consistent with the interests of justice, the court shall hold the hearing within 28 days after the filing of the petition. The court may consolidate the hearings on all petitions filed by third party claimants under this section. At the hearing, the petitioner may testify and present evidence on his or her own behalf and may cross-examine witnesses. The prosecuting agency may present evidence and witnesses in rebuttal and in defense of the claim of the state to the property and may cross-examine witnesses. The court, in making its determination, shall consider the testimony and evidence presented at the hearing and the relevant portions of the record of the criminal proceeding that resulted in the order of criminal forfeiture.

(4) If the court determines 1 or more of the following, by a preponderance of the evidence, the court shall amend the order of criminal forfeiture in accordance with its determination to protect the rights of innocent persons:

(a) The petitioner has a legal right, title, or interest in the property that, at the time of the commission of the acts giving rise to the forfeiture of the property, was vested in the petitioner and not in the defendant or was superior to the right, title, or interest of the defendant, and the petitioner did not have prior actual knowledge of the racketeering activity.

(b) The petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of the purchase reasonably without cause to believe that the property was subject to forfeiture under section 159j.

(c) The property is encumbered by a security interest and the holder of the security interest did not have prior actual knowledge of the racketeering activity.

(d) The property is encumbered by an unpaid balance on a land contract and the land contract vendor did not have prior actual knowledge of the racketeering activity.

History: Add. 1995, Act 187, Eff. Apr. 1, 1996.

750.159*l* Jurisdiction of court; notification of persons with property interest.

Sec. 159*l*. (1) In a prosecution under section 159i, the court has jurisdiction to enter such restraining orders or injunctions or to take other action by order, including, but not limited to, the acceptance of satisfactory performance bonds, in connection with any property subject to criminal forfeiture under section 159j, as the court considers proper.

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(2) Within 14 days after the entry of an order described in subsection (1), the prosecuting agency shall notify all persons known to have or appearing to have an interest in the property of the order, by certified mail. In determining whom to notify under this subsection, the prosecuting agency shall conduct a search of county, state, and federal public records where notices of liens and security interests are normally recorded.

History: Add. 1995, Act 187, Eff. Apr. 1, 1996.

750.159m Property subject to civil in rem forfeiture; exceptions; encumbrances; attorney fees.

Sec. 159m. (1) Except as otherwise provided in this section, all real, personal, or intangible property of a person convicted of a violation of section 159i that is the proceeds of racketeering, the substituted proceeds of racketeering, or an instrumentality of racketeering, is subject to civil in rem forfeiture to a local unit of government or the state under this section and sections 159n to 159q.

(2) Real property that is the primary residence of the spouse of the owner is not subject to civil in rem forfeiture under this section and sections 159n to 159q, unless that spouse had prior actual knowledge of, and consented to and participated in the commission of, the racketeering activity. Real property that is the primary residence of a dependent minor child of the owner is not subject to civil in rem forfeiture under this section and sections 159n to 159q.

(3) Property is not subject to civil in rem forfeiture if either of the following circumstances exists:

(a) The owner of the property did not have prior actual knowledge of the commission of the racketeering activity.

(b) The owner of the property served notice of the commission of the crime upon an appropriate law enforcement agency.

(4) The civil in rem forfeiture of property encumbered by a security interest is subject to the interest of the holder of the security interest who did not have prior actual knowledge of the racketeering activity.

(5) The civil in rem forfeiture of property encumbered by an unpaid balance on a land contract is subject to the interest of the land contract vendor who did not have prior actual knowledge of the racketeering activity.

(6) Reasonable attorney fees for representation in an action under this chapter are not subject to civil in rem forfeiture under this chapter.

History: Add. 1995, Act 187, Eff. Apr. 1, 1996.

750.159n Seizure of property subject to civil in rem forfeiture; petition; filing; personal or intangible property; determination by court; seizure without process; circumstances; lien notice against real property; notice and hearing required; return of property to crime victim; exceptions; custody of property by seizing agency.

Sec. 159n. (1) A civil in rem forfeiture proceeding under this chapter is a proceeding against property subject to forfeiture under section 159m instituted by the filing of a petition by the prosecuting agency.

(2) Personal or intangible property subject to civil in rem forfeiture under section 159m may be seized pursuant to an order of seizure issued by the court having jurisdiction over the property.

(3) Upon an ex parte application by the prosecuting agency, before or after the initiation of a civil in rem forfeiture proceeding, the court may determine ex parte whether there is probable cause to believe that personal or intangible property is subject to civil in rem forfeiture under section 159m and that notice to those persons having or claiming an interest in the property before seizure would cause the loss or destruction of the property. In making this determination, the court shall, as a matter of law, make a determination that the property constituted an interest in, means of control over, or influence over an enterprise involved in a violation of section 159i. If the court finds that probable cause does not exist to believe the property is subject to forfeiture under this act, the court shall dismiss the plaintiff prosecuting agency's application and, if a civil in rem forfeiture proceeding has been initiated, shall dismiss the petition. If the court finds that probable cause does exist to believe the property is subject to forfeiture but there is not probable cause to believe that prior notice would result in loss or destruction of the property, the court shall order service on all persons known to have or claim an interest in the property before a further hearing on whether an order of seizure should issue. If the court finds that there is probable cause to believe that the property is subject to forfeiture and to believe that prior notice would cause loss or destruction of the property, the court shall issue an order of seizure directing the sheriff or other law enforcement officer in the county where the property is found to seize it.

(4) Personal or intangible property subject to civil in rem forfeiture under this chapter may be seized without process under any of the following circumstances:

(a) The seizure is incident to a lawful arrest.

(b) The seizure is pursuant to a valid search warrant.

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(c) The seizure is pursuant to an inspection under a valid administrative inspection warrant.

(d) There is probable cause to believe that the property is directly or indirectly dangerous to health or safety.

(e) Exigent circumstances exist that preclude the obtaining of a court order, and there is probable cause to believe that the property is subject to civil in rem forfeiture under section 159m.

(f) The property is the subject of a prior judgment in favor of this state in a forfeiture proceeding.

(5) The prosecuting agency may apply ex parte for an order authorizing the filing of a lien notice against real property subject to civil in rem forfeiture under section 159m. The application shall be supported by a sworn affidavit setting forth probable cause for a civil in rem forfeiture action pursuant to sections 159m to 159q. An order authorizing the filing of a lien notice may be issued upon a showing of probable cause to believe that the property is subject to civil in rem forfeiture under section 159m.

(6) Real property shall not be seized without notice and a hearing.

(7) Property that belongs to the victim of a crime shall promptly be returned to the victim, except in the following circumstances:

(a) The property is contraband.

(b) If the ownership of the property is disputed, until the dispute is resolved.

(c) The property is required to be retained as evidence pursuant to section 4(4) of the crime victim's rights act, Act No. 87 of the Public Acts of 1985, being section 780.754 of the Michigan Compiled Laws.

(8) Personal or intangible property seized under this section is not subject to any other action to recover personal property, but is considered to be in the custody of the seizing agency subject only to this chapter, or to an order and judgment of the court having jurisdiction over the civil in rem forfeiture proceedings. When property is seized under this section, the seizing agency may do 1 or more of the following:

(a) Place the property under seal.

(b) Remove the property to a place designated by the court.

History: Add. 1995, Act 187, Eff. Apr. 1, 1996.

750.159o Notice requirements.

Sec. 159o. (1) Within 14 days after personal or intangible property is seized or a lien notice is filed against real property under section 159n, the prosecuting agency shall give notice pursuant to this section of the seizure of the property and the intent to forfeit and dispose of the property according to this chapter. This 14-day notice period is not jurisdictional. The prosecuting agency may move for an extension of the notice period for good cause shown. The prosecuting agency shall give the notice to each of the following persons:

(a) If charges have been filed against a person for a crime, the person charged.

(b) Each person known to have or appearing to have an ownership interest in the property.

(c) Each mortgagee, person holding a security interest, or person having a lien that appears on the certificate of title or is on file with the secretary of state or appropriate register of deeds, if the property is real property, a mobile home, motor vehicle, watercraft, or other personal property.

(d) Each holder of a preferred ship mortgage of record in the appropriate public office pursuant to chapter 313 of subtitle III of title 46 of the United States Code, if the property is a watercraft more than 28 feet long or a watercraft that has a capacity of 5 net tons or more.

(e) Each person whose security interest is recorded with the appropriate public office pursuant to the federal aviation act of 1958, Public Law 85-726, 72 Stat. 731, if the property is an aircraft, aircraft engine, or aircraft propeller, or a part of an aircraft, aircraft engine, or aircraft propeller.

(f) Each person known to have or appearing to have a security interest in the property.

(g) Each victim of the crime.

(2) The notice required under subsection (1) shall be a written notice delivered to the person or sent to the person by certified mail. If the name and address of the person are not reasonably ascertainable or delivery of the notice cannot reasonably be accomplished, the notice shall be published in a newspaper of general circulation in the county in which the personal or intangible property was seized or the real property is located for 10 successive publishing days. Proof of written notice or publication shall be filed with the court having jurisdiction over the seizure or forfeiture.

(3) If personal or intangible property is seized, the seizing agency shall immediately notify the prosecuting agency of the seizure of the property and the intent to forfeit and dispose of the property according to this chapter.

History: Add. 1995, Act 187, Eff. Apr. 1, 1996.

750.159p Verified claim stating interest in property or proceeds.

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Sec. 159p. (1) At any time within 28 days after the date of the completion of the publication pursuant to section 159o or within 21 days after receipt of actual notice pursuant to section 159o, a person claiming an interest in property or proceeds subject to forfeiture may file with the prosecuting agency a verified claim stating his or her interest in the property or proceeds.

(2) If no claim is filed within the period specified in subsection (1), the prosecuting agency shall declare the property forfeited and shall dispose of the property according to section 159r.

(3) If a claim is filed within the period specified in subsection (1), the prosecuting agency shall institute a civil in rem forfeiture action within 7 days after the expiration of the period specified in subsection (1).

History: Add. 1995, Act 187, Eff. Apr. 1, 1996.

750.159q Burden of proof; evidence; return or disposal of property; notice; estoppel from denial of allegations in civil trial; admissibility of testimony.

Sec. 159q. (1) At the civil in rem forfeiture proceeding, the court shall act as trier of fact. The prosecuting agency has the burden of proving both of the following by clear and convincing evidence:

(a) The property is subject to civil in rem forfeiture under section 159m.

(b) The person claiming an ownership interest in the property had prior actual knowledge of the commission of an offense listed in the definition of racketeering.

(2) At the civil in rem forfeiture proceeding, the person claiming an ownership interest in the property has the burden of proving, by a preponderance of the evidence, that he or she served notice of the commission of the crime upon an appropriate law enforcement agency.

(3) At the civil in rem forfeiture proceeding, the prosecuting agency has the burden of proving, by a preponderance of the evidence, that a person claiming a security interest in the property or a person claiming an interest as a land contract vendor had prior actual knowledge of the commission of the racketeering activity.

(4) If the prosecuting agency fails to meet the burden of proof under subsection (1), or if the person claiming an ownership interest in the property meets his or her burden of proof under subsection (2), the property shall be returned to the owner within 28 days after a written order is entered to return the property, unless an appellate court stays the order. In addition, the prosecuting agency shall reimburse the owner for reasonable attorney fees and damages related to towing costs, storage fees and expenses, foreclosure costs, and other similar expenses.

(5) If the prosecuting agency meets the burden of proof under subsection (1) and the person claiming an ownership interest in the property does not meet the burden of proof under subsection (2), the property shall be disposed of pursuant to section 159r.

(6) Within 7 days after personal property is returned to the owner, or a lien filed against real property or a motor vehicle is discharged, the prosecuting agency that gave notice of the seizure of the property and the intent to forfeit and dispose of the property pursuant to section 159o shall give notice to the persons who received notice pursuant to section 159o that the property has been returned to the owner or that the lien has been discharged.

(7) The notice required under subsection (6) shall be a written notice delivered to the person or sent to the person by certified mail. If the name and address of the person are not reasonably ascertainable or delivery of the notice cannot reasonably be accomplished, the notice shall be published in a newspaper of general circulation in the county in which the personal property was seized or the real property is located for 10 successive publishing days.

(8) A defendant convicted in a criminal proceeding is estopped from subsequently denying in a civil action the essential allegations of the criminal offense of which he or she was convicted.

(9) The testimony of a person at a civil in rem forfeiture proceeding held under this chapter is not admissible against him or her, except for the purpose of impeachment, in a criminal proceeding other than a criminal prosecution for perjury. The testimony of a person at a civil in rem forfeiture proceeding held under this chapter does not waive the person's constitutional right against self-incrimination.

History: Add. 1995, Act 187, Eff. Apr. 1, 1996.

750.159r Sale of seized property by unit of government; disposal of received money; order of priority; appointment, compensation, and duties of receiver.

Sec. 159r. (1) If property is criminally or civilly forfeited under this chapter, the unit of government that seized or filed a lien against the property may sell the property that is not required to be destroyed by law and that is not harmful to the public and may dispose of the money received from the sale of the property and any money, negotiable instrument, security, or other thing of value that is forfeited pursuant to this chapter in the following order of priority:

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(a) Pay any outstanding security interest or unpaid land contract balance of a secured party or land contract vendor who did not have prior actual knowledge of, or consent to the commission of, the crime.

(b) Satisfy any order of restitution in the prosecution for the crime.

(c) Pay the claim of each person who shows that he or she is a victim of the crime to the extent that the claim is not covered by an order of restitution.

(d) Pay any valid outstanding lien against the property that has been imposed by a governmental unit.

(e) Pay the proper expenses of the proceedings for forfeiture and sale, including, but not limited to, expenses incurred during the seizure process and expenses for maintaining custody of the property, advertising, and court costs.

(f) The balance remaining after the payment of restitution, the claims of victims, outstanding liens, and expenses shall be distributed by the court having jurisdiction over the forfeiture proceedings to the unit or units of government substantially involved in effecting the forfeiture. The money received by a unit of government under this subdivision shall be used to enhance enforcement of the criminal laws.

(2) In the course of selling real property pursuant to subsection (1), the court that enters an order or sentence of forfeiture, on motion of the unit of government to which the property is forfeited, may appoint a receiver to dispose of the real property forfeited. The receiver is entitled to reasonable compensation. The receiver may do all of the following:

(a) List the forfeited real property for sale.

(b) Make whatever arrangements are necessary for maintaining and preserving the forfeited real property.

(c) Accept offers to purchase the forfeited real property.

(d) Execute instruments transferring title to the forfeited real property.

History: Add. 1995, Act 187, Eff. Apr. 1, 1996.

750.159s Commencement of action.

Sec. 159s. A civil in rem forfeiture action under this chapter related to an offense included in the definition of racketeering or a violation of section 159i shall be commenced within 6 years after the activity terminates or the cause of action accrues, whichever is later.

History: Add. 1995, Act 187, Eff. Apr. 1, 1996.

750.159t Seizure of constitutionally protected materials.

Sec. 159t. Notwithstanding any provision in this chapter, the prosecuting agency shall not seize materials presumptively protected by the first amendment to the constitution of the United States in a manner that violates that constitutional provision.

History: Add. 1995, Act 187, Eff. Apr. 1, 1996.

750.159u Civil cause of action not created by chapter.

Sec. 159u. Except as expressly provided, this chapter does not create a civil cause of action between 2 or more persons.

History: Add. 1995, Act 187, Eff. Apr. 1, 1996.

750.159v Forfeiture proceeding under other law not precluded.

Sec. 159v. This chapter does not preclude a prosecuting agency from pursuing a forfeiture proceeding under any other law of this state.

History: Add. 1995, Act 187, Eff. Apr. 1, 1996.

750.159w Activities unrelated to prohibited activities of enterprise.

Sec. 159w. This chapter shall not be construed to permit the termination, suspension, or interruption of the legitimate activities of an enterprise that are unrelated to any felonious or racketeering activity forming the object of the criminal case or civil in rem forfeiture action and that may cause harm to innocent employees or members of the enterprise.

History: Add. 1995, Act 187, Eff. Apr. 1, 1996.

750.159x Notice of proposed investigation to attorney general.

Sec. 159x. Before conducting an investigation of activity suspected to constitute a violation of section 159i, a prosecuting agency who is the prosecuting attorney of a county or his or her designee shall notify the department of the attorney general of the proposed investigation.

History: Add. 1995, Act 187, Eff. Apr. 1, 1996.

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CHAPTER XXVI
DEAD HUMAN BODIES

750.160 Disinterment, mutilation, defacement, or carrying away of human body; exception.

Sec. 160. A person, not being lawfully authorized so to do, who shall wilfully dig up, disinter, remove, or convey away a human body, or the remains thereof, from the place where the body may be interred or deposited, or who shall knowingly aid in such disinterment, removal, or conveying away, or who shall mutilate, deface, remove, or carry away a portion of the dead body of a person, whether in his charge for burial or otherwise, whenever the mutilation, defacement, removal, or carrying away is not necessary in any proper operation in embalming the body or for the purpose of a postmortem examination, and every person accessory thereto, either before or after the fact, shall be guilty of a felony, punishable by imprisonment for not more than 10 years, or by fine of not more than $5,000.00. This section shall not be construed to prohibit the digging up, disinterment, removal or carrying away for scientific purposes of the remains of prehistoric persons by representatives of established scientific institutions or societies, having the consent in writing of the owner of the land from which the remains may be disinterred, removed or carried away.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.160;—Am. 1974, Act 168, Imd. Eff. June 23, 1974.

Former law: See section 21 of Ch. 158 of R.S. 1846, being CL 1857, § 5876; CL 1871, § 7711; How., § 9297; CL 1897, § 11710; CL 1915, § 15484; CL 1929, § 16836; Act 158 of 1879; Act 251 of 1919; and Act 256 of 1929.

750.160a Photograph of decedent located in human grave prohibited; exceptions; definitions.

Sec. 160a. (1) Subject to subsection (2), a person shall not knowingly photograph or publicly display a photograph of all or a portion of a decedent located in a human grave.

(2) Subsection (1) does not apply to a person acting pursuant to a court order, to a person who has obtained the written consent of the decedent's next of kin if the decedent's death occurred less than 100 years before the photographing or public displaying, or to a person who photographs or publicly displays a photograph described in subsection (1) for law enforcement, medical, archaeological, or scientific purposes.

(3) As used in this section:

(a) "Bottomlands of the Great Lakes" means bottomlands as that term is defined in section 76101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.76101.

(b) "Decedent" means a dead human being.

(c) "Human grave" means any of the following:

(*i*) A site in this state intended for the permanent interment of all or a portion of a decedent.

(*ii*) A location in this state, including the bottomlands of the Great Lakes, that contains all or a portion of a decedent who died in an accident or disaster and from which it is impracticable or not intended to remove all or a portion of the decedent. A location under this subparagraph includes a shipwreck and a site in the immediate vicinity of a shipwreck in which all or a portion of a decedent is located, and a mine or other underground location within which all or a portion of a decedent is located.

(d) "Photograph" includes an image on videotape, motion picture or other film, or an image captured by digital means.

History: Add. 1997, Act 62, Eff. Oct. 1, 1997.

750.160b Violation of § 750.160a as felony; penalty.

Sec. 160b. A person who violates section 160a 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.

History: Add. 1997, Act 63, Eff. Oct. 1, 1997.

750.160c Prohibited acts; violation; exceptions; "final disposition of a dead body" defined.

Sec. 160c. (1) A person shall not do any of the following:

(a) After agreeing to provide the services of a funeral director, fail or refuse to properly supervise the final disposition of that dead human body.

(b) After agreeing to provide for the final disposition of a dead human body, fail or refuse to properly dispose of that dead human body.

(2) A person who violates this section is guilty of a crime as follows:

(a) If the failure or refusal to properly supervise the final disposition of a dead human body or the failure or refusal to properly dispose of the dead human body occurs more than 60 days but not more than 180 days after the date the person takes possession of the dead human body, the person is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $10,000.00, or both.

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(b) If the failure or refusal to properly supervise the final disposition of a dead human body or the failure or refusal to properly dispose of the dead human body occurs more than 180 days after the date the person takes possession of the dead human body, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $50,000.00, or both.

(3) It is not a violation of this section if the failure or refusal is due to 1 or more of the following factors:

(a) Delays due to seasonal factors relating to the method of final disposition of the dead human body.

(b) Delays due to the availability of services required to complete the final disposition of the dead human body.

(c) The directives of the person having lawful authority over final disposition of the dead human body to postpone that disposition pending funeral services, the presence of certain family members, or other activities.

(d) Delays due to the inability to obtain the necessary authorizations regarding the method of final disposition of the dead human body or due to the inability to locate individuals essential to making a decision regarding the final disposition of the dead human body.

(e) Delays due to an autopsy, investigation of the cause of death, the gathering of evidence, or other activity or procedure required by a governmental or law enforcement agency.

(f) Delays pursuant to an order issued by a court of competent jurisdiction upon petition and showing of good cause for a delay in the final disposition of a dead human body.

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

(5) As used in this section, "final disposition of a dead human body" means cremation, burial, entombment, or other method of final disposition of a dead human body allowable under law.

History: Add. 2003, Act 267, Eff. Apr. 1, 2004.

CHAPTER XXVII
DESERTION AND NON-SUPPORT

750.161 Desertion, abandonment, or refusal or neglect to provide shelter, food, care, and clothing; felony; penalty; bond; probation; failure to comply with conditions in bond; forfeiture of bond; disposition of sums received; continuing offense; proof.

Sec. 161. (1) A person who deserts and abandons his or her spouse or deserts and abandons his or her children under 17 years of age, without providing necessary and proper shelter, food, care, and clothing for them, and a person who being of sufficient ability fails, neglects, or refuses to provide necessary and proper shelter, food, care, and clothing for his or her spouse or his or her children under 17 years of age, is guilty of a felony, punishable by imprisonment in a state correctional facility for not less than 1 year and not more than 3 years, or by imprisonment in the county jail for not less than 3 months and not more than 1 year.

(2) If at any time before sentence the defendant enters into bond to the people of the state of Michigan in such penal sum for such term and with such surety or sureties as may be fixed by the court, conditioned that he or she will furnish his or her spouse and children with necessary and proper shelter, food, care, and clothing, or will pay to the clerk of the court, or other designated person, such sums of money at such times as the court shall order to be used to provide food, shelter, and clothing for his or her spouse and children, or either of them, then the court may make an order placing the defendant in charge of a probation officer. The court may require that the defendant shall from time to time report to the probation officer as provided by law. The court may extend the period of probation from time to time or the court may defer sentence in the cause, but no term of any bond or any probation period shall exceed the maximum term of imprisonment as provided for in this section.

(3) Upon failure of the defendant to comply with any of the conditions contained in the bond, the defendant may be ordered to appear before the court and show cause why sentence should not be imposed, whereupon the court may pass sentence, or for good cause shown may modify the order and further defer sentence as may be just and proper. Whenever the whereabouts of the defendant is unknown, the court may summarily issue a bench warrant for the arrest of the defendant.

(4) The court, upon default by the defendant to comply with the conditions of the bond and the orders of the court, shall notify the prosecuting attorney, who shall immediately file a petition in the court in which the cause is pending to declare the bond forfeited. A copy of the petition and a notice of hearing on the petition shall be served upon the surety or sureties, if any, named in the bond at least 4 days before the hearing of the petition. Upon holding a hearing on the petition, the court may declare the bond forfeited. When so ordered, the prosecuting attorney shall immediately institute the necessary action to collect the principal sum of the bond. If a cash bond has been filed, the cash bond shall be declared forfeited by the court.

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(5) All sums received from bonds being forfeited shall be paid to the clerk of the court, who shall hold and disburse the money for the use of those entitled to the money in accordance with the orders of the court for their necessary food, care, shelter, and clothing.

(6) Desertion, abandonment, or refusal or neglect to provide necessary and proper shelter, food, care, and clothing as provided in this section shall be considered to be a continuing offense and may be so set out in any complaint or information. Proof of the offense charged at any time during the period alleged in the complaint or information shall be considered proof of a violation of this section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1947, Act 142, Eff. Oct. 11, 1947;—CL 1948, 750.161;—Am. 1984, Act 277, Eff. Mar. 29, 1985.

Former law: See section 1 of Act 144 of 1907, being CL 1915, § 7789; CL 1929, § 12788; Act 114 of 1921; and Act 239 of 1923.

****** 750.161a.added THIS ADDED SECTION IS EFFECTIVE JUNE 1, 2005 ******

750.161a.added Failure or refusal to pay child support; amnesty.

Sec. 161a. Prosecution shall not be initiated against an individual under section 161, 165, 167(1)(a), or 167(2) for failure or refusal to pay child support while the individual has amnesty for that child support arrearage under section 3b of the office of child support act, 1971 PA 174, MCL 400.233b.

History: Add. 2004, Act 568, Eff. June 1, 2005.

750.162 Payments for care and support of wife or children; sworn statement.

Sec. 162. When any person is convicted under section 161 and sentenced to serve a term of imprisonment either in 1 of the state prisons or other penal institution, the warden of the prison or superintendent of said penal institution in which said person shall be confined shall, in case funds are available for such purpose, at the end of each and every week during the period of said term of imprisonment, pay over to any of the superintendents of the poor of the city or county in which the wife or children of such person resides, the sum of 2 dollars and 50 cents per week, if there be only a wife, and 75 cents per week additional for each minor child under the age of 17 years; if there be no wife and there are children under the age of 17 years, the sum of 2 dollars and 50 cents per week for the oldest child, and an additional sum of 1 dollar per week for each of the other children under said age in lieu of any earnings of such person while an inmate therein, said sums to be expended by said superintendent of the poor for the care and support of the wife or children of said person, as the case may be; and it shall be the duty of the superintendent of the poor of the city or county from which such person shall be committed to furnish the warden of the prison or superintendent of the penal institution in which said person is confined with a sworn statement, showing the names of the wife and children who are left dependent upon the city or county for support, their ages and the relation they bear to such convicted person.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.162;—Am. 1985, Act 52, Imd. Eff. June 14, 1985.

Former law: See section 2 of Act 144 of 1907, being CL 1915, § 7790; CL 1929, § 12789; Act 175 of 1913; and Act 239 of 1923.

750.163 Complaints.

Sec. 163. Complainants—Any of the superintendents of the poor of the city or county or the county agent of the state welfare commission for the county wherein the wife or minor children of the person complained of reside, may make the complaint under the first section of this chapter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.163.

Former law: See section 4 of Act 144 of 1907, being CL 1915, § 7792; and CL 1929, § 12791.

750.164 Desertion following marriage to escape prosecution.

Sec. 164. Desertion following marriage to escape prosecution for rape, etc.—Any man or boy, who being the father of a child born out of wedlock, shall marry any woman or girl for the purpose of escaping prosecution therefor, and any man or boy who shall marry any woman or girl for the purpose of escaping prosecution for rape or seduction, and shall afterwards desert her without good cause, shall be guilty of a felony: Provided, That no prosecution shall be brought under this section after 5 years from the date of the marriage.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.164.

Former law: See section 1 of Act 284 of 1907, being CL 1915, § 7794; CL 1929, § 12793; and Act 310 of 1913.

750.165 Refusing to support wife or children as required by court order; violation as felony; penalty; exception; cash bond; suspension of sentence; bond; "state disbursement unit" or "SDU" defined.

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Sec. 165. (1) If the court orders an individual to pay support for the individual's former or current spouse, or for a child of the individual, and the individual does not pay the support in the amount or at the time stated in the order, the individual is guilty of a felony punishable by imprisonment for not more than 4 years or by a fine of not more than $2,000.00, or both.

(2) This section does not apply unless the individual ordered to pay support appeared in, or received notice by personal service of, the action in which the support order was issued.

(3) Unless the individual deposits a cash bond of not less than $500.00 or 25% of the arrearage, whichever is greater, upon arrest for a violation of this section, the individual shall remain in custody until the arraignment. If the individual remains in custody, the court shall address the amount of the cash bond at the arraignment and at the preliminary examination and, except for good cause shown on the record, shall order the bond to be continued at not less than $500.00 or 25% of the arrearage, whichever is greater. At the court's discretion, the court may set the cash bond at an amount not more than 100% of the arrearage and add to that amount the amount of the costs that the court may require under section 31(3) of the support and parenting time enforcement act, 1982 PA 295, MCL 552.631. The court shall specify that the cash bond amount be entered into the L.E.I.N. If a bench warrant under section 31 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.631, is outstanding for an individual when the individual is arrested for a violation of this section, the court shall notify the court handling the civil support case under the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, that the bench warrant may be recalled.

(4) The court may suspend the sentence of an individual convicted under this section if the individual files with the court a bond in the amount and with the sureties the court requires. At a minimum, the bond must be conditioned on the individual's compliance with the support order. If the court suspends a sentence under this subsection and the individual does not comply with the support order or another condition on the bond, the court may order the individual to appear and show cause why the court should not impose the sentence and enforce the bond. After the hearing, the court may enforce the bond or impose the sentence, or both, or may permit the filing of a new bond and again suspend the sentence. The court shall order a support amount enforced under this section to be paid to the clerk or friend of the court or to the state disbursement unit.

(5) As used in this section, "state disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1939, Act 89, Eff. Sept. 29, 1939;—CL 1948, 750.165;—Am. 1999, Act 152, Imd. Eff. Nov. 3, 1999;—Am. 2004, Act 570, Imd. Eff. Jan. 3, 2005.

Former law: See section 1 of Act 276 of 1917, being CL 1929, § 12781.

750.166 Wife may testify against husband.

Sec. 166. Wife may testify against husband—In all prosecutions under this chapter, the wife may testify against the husband without his consent.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.166.

Former law: See section 1 of Act 284 of 1907, being CL 1915, § 7794; CL 1929, § 12793; Act 310 of 1913; and section 2 of Act 276 of 1917, being CL 1929, § 12782.

CHAPTER XXVIII
DISORDERLY PERSONS

750.167 "Disorderly person" defined; subsequent violations by person convicted of refusing or neglecting to support family.

Sec. 167. (1) A person is a disorderly person if the person is any of the following:

(a) A person of sufficient ability who refuses or neglects to support his or her family.

(b) A common prostitute.

(c) A window peeper.

(d) A person who engages in an illegal occupation or business.

(e) A person who is intoxicated in a public place and who is either endangering directly the safety of another person or of property or is acting in a manner that causes a public disturbance.

(f) A person who is engaged in indecent or obscene conduct in a public place.

(g) A vagrant.

(h) A person found begging in a public place.

(i) A person found loitering in a house of ill fame or prostitution or place where prostitution or lewdness is practiced, encouraged, or allowed.

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(j) A person who knowingly loiters in or about a place where an illegal occupation or business is being conducted.

(k) A person who loiters in or about a police station, police headquarters building, county jail, hospital, court building, or other public building or place for the purpose of soliciting employment of legal services or the services of sureties upon criminal recognizances.

(*l*) A person who is found jostling or roughly crowding people unnecessarily in a public place.

(2) When a person, who has been convicted of refusing or neglecting to support his or her family under this section, is then charged with subsequent violations within a period of 2 years, that person shall be prosecuted as a second offender, or third and subsequent offender, as provided in section 168, if the family of that person is then receiving public relief or support.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1939, Act 84, Eff. Sept. 29, 1939;—CL 1948, 750.167;—Am. 1956, Act 110, Eff. Aug. 11, 1956;—Am. 1964, Act 144, Eff. Aug. 28, 1964;—Am. 1969, Act 328, Eff. Mar. 20, 1970;—Am. 1974, Act 340, Eff. Jan. 1, 1977;—Am. 1977, Act 109, Eff. Jan. 15, 1978.

Former law: See section 1 of Act 264 of 1889, being How., § 1997a; CL 1897, § 5923; CL 1915, § 7774; CL 1929, § 9090; and Act 35 of 1927.

750.167a Person hunting with firearms while drunk or intoxicated; confiscation and disposition of weapons; application for or possession of hunting license for period of 3 years prohibited.

Sec. 167a. Any person who shall be drunk or intoxicated while hunting with a firearm or other weapon under a valid hunting license shall be deemed to be a disorderly person. Upon conviction of such person, the weapon shall be confiscated and shall be delivered to the department of natural resources for disposition in the same manner as weapons confiscated for other violations of the game laws. Upon conviction under this section, the person so convicted, in addition to any punishment imposed pursuant to section 168, and as a part of any sentence imposed, shall be forbidden to apply for or possess a hunting license for a period of 3 years following the date of conviction. A violation of the conditions of such sentence shall be deemed to be a misdemeanor.

History: Add. 1952, Act 30, Eff. Sept. 18, 1952;—Am. 1987, Act 148, Imd. Eff. Oct. 26, 1987.

750.167b Bondsman in criminal cases; procurement of attorney; maximum charge for bond; dismissal of charge; list of bondsmen; posting; compilation; record; violation; penalty.

Sec. 167b. (1) No person engaged, either as principal or as the clerk, agent or representative of another, in the business of becoming surety upon bonds for compensation in any criminal case, either directly or indirectly, shall give, donate, lend or contribute, or promise to give, donate, lend or contribute, any money or property to any attorney at law, police office, sheriff, jailer, probation officer, clerk or other attache of any criminal court, or public official or employee, for procuring, or assisting in procuring, any person to employ the bondsman to execute as surety any bond for compensation in any criminal case. No attorney at law, police officer, sheriff, jailer, probation officer, clerk or other attache of any criminal court, or public official or employee of any character, shall accept or receive from any person engaged in the bonding business any money or property for procuring, or assisting in procuring, any person to employ any bondsman to execute as surety any bond for compensation in any criminal case.

(2) No person engaged, either as principal or as the clerk, agent or representative of another, in the business of becoming surety upon bonds for compensation in any criminal case, either directly or indirectly, shall procure, suggest, aid in the procurement of or cause in any way whatsoever the obtaining or employing of any attorney at law for any person in a criminal case.

(3) It shall be lawful to charge for executing any bond in a criminal case, but no person engaged in the bonding business, either as principal or clerk, agent or representative of another, either directly or indirectly, shall charge, accept or receive any sum of money or property, other than the regular prevailing fee for bonding, which shall not exceed 10% of the face value of the bond for a 12 month period or any part thereof, from any person for whom he has executed bond, for any other service whatever performed in connection with any indictment, information or charge upon which the person is bailed or held. No person engaged, either as principal or as the clerk, agent or representative of another, in the bonding business shall settle or attempt to settle, or shall procure or attempt to procure, the dismissal of any indictment, information or charge against any person in custody or held upon bond with any court or with the prosecuting attorney in any court.

(4) A typewritten or printed list, alphabetically arranged, of all persons engaged in the business of becoming surety upon bonds for compensation in criminal cases within the county shall be posted in a conspicuous place in each police precinct, jail, prisoner's dock and house of detention and in every other place in which persons in custody of the law are detained, and 1 or more copies thereof shall be kept on hand.

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The list shall be compiled annually by the judges of the circuit court of each circuit, and the names of persons engaged in the business of becoming surety upon bonds for compensation shall be added to the list by the judges upon proper application. When any person who is detained in custody in any such place of detention requests any person in charge thereof to furnish him the name of a bondsman, or to put him in communication with a bondsman, the list shall be furnished to the person so requesting, without recommendation, and the person in charge of the place of detention within a reasonable time shall put the person detained in communication with the bondsman selected and, contemporaneously with the transaction, make in the blotter or book of record kept in any place of detention a record showing the name of the person requesting the bondsman, the offense with which the person is charged, the time at which the request was made, the bondsman requested, and the person by whom the bondsman was called, and preserve the same as a permanent record in the book or blotter in which entered.

(5) Any person violating any provision of this section shall be punished as provided in section 168.

History: Add. 1963, Act 169, Eff. Sept. 6, 1963.

750.167c Report of conviction for hunting while intoxicated; circulating list of convictions; violation by licensing agent.

Sec. 167c. A court imposing a sentence under section 167a shall report the conviction to the department of natural resources upon forms furnished by the department. The department shall circulate a list of the convictions to each of its agents authorized to issue hunting licenses. An agent shall not knowingly issue a hunting license to an applicant whose name is on the departmental list for the period of time prescribed under section 167a. A violation of this section by the licensing agent may be grounds for suspension or revocation of the licensing agency by the department.

History: Add. 1972, Act 91, Imd. Eff. Mar. 20, 1972.

750.168 Disorderly person; penalty.

Sec. 168. Any person convicted of being a disorderly person shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.168;—Am. 1965, Act 320, Eff. Mar. 31, 1966.

Former law: See section 2 of Act 264 of 1889, being How., § 1997a-1; CL 1897, § 5924; CL 1915, § 7775; CL 1929, § 9091; Act 190 of 1895; Act 82 of 1909; and Act 35 of 1927.

CHAPTER XXIX
DISTURBING MEETINGS

750.169 Disturbance of religious meetings.

Sec. 169. Disturbance of religious meetings—Any person who, on the first day of the week, or at any other time, shall wilfully interrupt or disturb any assembly of people met for the worship of God, within the place of such meeting or out of it, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.169.

Former law: See section 19 of Ch. 158 of R.S. 1846, being CL 1857, § 5874; CL 1871, § 7709; How., § 9295; CL 1897, § 11708; CL 1915, § 15482; and CL 1929, § 16834.

750.170 Disturbance of lawful meetings.

Sec. 170. Disturbance of lawful meetings—Any person who shall make or excite any disturbance or contention in any tavern, store or grocery, manufacturing establishment or any other business place or in any street, lane, alley, highway, public building, grounds or park, or at any election or other public meeting where citizens are peaceably and lawfully assembled, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.170.

Former law: See section 20 of Ch. 158 of R.S. 1846, being CL 1857, § 5875; CL 1871, § 7710; How., § 9296; CL 1897, § 11709; CL 1915, § 15483; CL 1929, § 16835; Act 191 of 1887; and Act 211 of 1909.

CHAPTER XXX
DUELLING

750.171 Engaging in or challenging to fight duel.

Sec. 171. Engaging in or challenging to fight duel—Any person who shall engage in a duel with any deadly weapon, although no homicide ensue, or who shall challenge another to fight such duel, or shall send or deliver any written or verbal message, purporting or intended to be such challenge, although no duel ensue, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by a fine of not more than 5,000 dollars, and shall also be incapable of holding or of being elected or appointed to any

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place of honor, profit or trust, under the constitution or laws of this state.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.171.

Former law: See section 7 of Ch. 153 of R.S. 1846, being CL 1857, § 5717; CL 1871, § 7516; How., § 9081; CL 1897, § 11476; CL 1915, § 15198; and CL 1929, § 16714.

750.172 Accepting challenge and abetting duel.

Sec. 172. Any person who shall accept any challenge, or who shall knowingly carry or deliver any challenge or message, whether a duel ensue or not, and every person who shall be present at the fighting of a duel with deadly weapons as an aid or second, or surgeon, or who shall advise, encourage, or promote such duel, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00 and is also disqualified as mentioned in the preceding section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.172;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 8 of Ch. 153 of R.S. 1846, being CL 1857, § 5718; CL 1871, § 7517; How., § 9082; CL 1897, § 11477; CL 1915, § 15199; and CL 1929, § 16715.

750.173 Posting for not accepting challenge to duel.

Sec. 173. Any person who shall post or advertise another, or in writing or print, use any reproachful or contemptuous language, to or concerning another, for not fighting a duel, or for not sending or accepting a challenge, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.173;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 9 of Ch. 153 of R.S. 1846, being CL 1857, § 5719; CL 1871, § 7518; How., § 9083; CL 1897, § 11478; CL 1915, § 15200; and CL 1929, § 16716.

750.173a Fencing as sport.

Sec. 173a. Fencing as a sport shall not be a violation of sections 171, 172 or 173 when face masks and other protective clothing designed to reduce the risk of injury are worn.

History: Add. 1968, Act 271, Eff. Nov. 15, 1968.

CHAPTER XXXI
EMBEZZLEMENT

750.174 Embezzlement by agent, servant or employee, or trustee, bailee or custodian; penalty; prima facie proof of intent; enhanced sentence based on prior convictions.

Sec. 174. (1) A person who as the agent, servant, or employee of another person, governmental entity within this state, or other legal entity or who as the trustee, bailee, or custodian of the property of another person, governmental entity within this state, or other legal entity fraudulently disposes of or converts to his or her own use, or takes or secretes with the intent to convert to his or her own use without the consent of his or her principal, any money or other personal property of his or her principal that has come to that person's possession or that is under his or her charge or control by virtue of his or her being an agent, servant, employee, trustee, bailee, or custodian, is guilty of embezzlement.

(2) If the money or personal property embezzled has a value of less than $200.00, 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 3 times the value of the money or property embezzled, whichever is greater, or both imprisonment and a fine.

(3) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value of the money or property embezzled, whichever is greater, or both imprisonment and a fine:

(a) The money or personal property embezzled has a value of $200.00 or more but less than $1,000.00.

(b) The person violates subsection (2) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(4) 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 3 times the value of the money or property embezzled, whichever is greater, or both imprisonment and a fine:

(a) The money or personal property embezzled has a value of $1,000.00 or more but less than $20,000.00.

(b) The person violates subsection (3)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (2) or (3)(b).

(5) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the money or property embezzled,

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whichever is greater, or both imprisonment and a fine:

(a) The money or personal property embezzled has a value of $20,000.00 or more.

(b) The person violates subsection (4)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (2) or (3)(b).

(6) Except as otherwise provided in this subsection, the values of money or personal property embezzled in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of money or personal property embezzled. If the scheme or course of conduct is directed against only 1 person, governmental entity within this state, or other legal entity, no time limit applies to aggregation under this subsection.

(7) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(8) In a prosecution under this section, the failure, neglect, or refusal of the agent, servant, employee, trustee, bailee, or custodian to pay, deliver, or refund to his or her principal the money or property entrusted to his or her care upon demand is prima facie proof of intent to embezzle.

(9) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.174;—Am. 1957, Act 69, Eff. Sept. 27, 1957;—Am. 1998, Act 312, Eff. Jan. 1, 1999.

Former law: See sections 1 and 2 of Act 48 of 1927, being CL 1929, §§ 16980 and 16981.

750.174a Person in relationship of trust with vulnerable adult; prohibited conduct; violation; penalty; enhanced sentence; exceptions; definitions; report by office of services to the aging to family independence agency.

Sec. 174a. (1) A person shall not through fraud, deceit, misrepresentation, coercion, or unjust enrichment obtain or use or attempt to obtain or use a vulnerable adult's money or property to directly or indirectly benefit that person knowing or having reason to know the vulnerable adult is a vulnerable adult.

(2) If the money or property used or obtained, or attempted to be used or obtained, has a value of less than $200.00, 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 3 times the value of the money or property used or obtained or attempted to be used or obtained, whichever is greater, or both imprisonment and a fine.

(3) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value of the money or property used or obtained or attempted to be used or obtained, whichever is greater, or both imprisonment and a fine:

(a) The money or property used or obtained, or attempted to be used or obtained, has a value of $200.00 or more but less than $1,000.00.

(b) The person violates subsection (2) and has 1 or more prior convictions for committing or attempting to commit an offense under this section.

(4) 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 3 times the value of the money or property used or obtained or attempted to be used or obtained, whichever is greater, or both imprisonment and a fine:

(a) The money or property used or obtained, or attempted to be used or obtained, has a value of $1,000.00 or more but less than $20,000.00.

(b) The person violates subsection (3)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (2) or (3)(b).

(5) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the money or property used or obtained or attempted to be used or obtained, whichever is greater, or both imprisonment and a fine:

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(a) The money or property used or obtained, or attempted to be used or obtained, has a value of $20,000.00 or more.

(b) The person violates subsection (4)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (2) or (3)(b).

(6) Except as otherwise provided in this subsection, the values of money or property used or obtained or attempted to be used or obtained in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of money or personal property used or obtained or attempted to be used or obtained. If the scheme or course of conduct is directed against only 1 person, no time limit applies to aggregation under this subsection.

(7) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(8) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction under section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(9) A financial institution or a broker or a director, officer, employee, or agent of a financial institution or broker is not in violation of this section while performing duties in the normal course of business of a financial institution or broker or a director, officer, employee, or agent of a financial institution or broker.

(10) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law the person commits while violating this section.

(11) As used in this section:

(a) “Broker” means that term as defined in section 8102 of the uniform commercial code, 1962 PA 174, MCL 440.8102.

(b) “Financial institution” means a bank, credit union, saving bank, or a savings and loan chartered under state or federal law or an affiliate of a bank, credit union, saving bank, or savings and loan chartered under state or federal law.

(c) “Vulnerable adult” means that term as defined in section 145m, whether or not the individual has been determined by the court to be incapacitated.

(12) If the office of services to the aging becomes aware of a violation of this section, the office of services to the aging shall promptly report the violation to the family independence agency.

History: Add. 2000, Act 222, Eff. Sept. 25, 2000;—Am. 2004, Act 255, Eff. Sept. 1, 2004.

750.175 Embezzlement by public officer, agent or servant; penalty.

Sec. 175. Embezzlement by public officer, his agent, etc.—Any person holding any public office in this state, or the agent or servant of any such person, who knowingly and unlawfully appropriates to his own use, or to the use of any other person, the money or property received by him in his official capacity or employment, of the value of 50 dollars or upwards, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by fine of not more than 5,000 dollars.

In any prosecution under this section the failure, neglect or refusal of any public officer to pay over and deliver to his successor all moneys and property which should be in his hands as such officer, shall be prima facie evidence of an offense against the provisions of this section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.175.

Former law: See section 1 of Act 186 of 1929, being CL 1929, § 16985.

750.176 Embezzlement by administrator, executor or guardian; penalty.

Sec. 176. Embezzlement by administrator, executor or guardian—Any general or special administrator or any executor or guardian, who has been appointed by a judge of probate and who has collected any goods, chattels, money or effects of the deceased or ward, and who has wilfully appropriated the same to his own use and who has been ordered by the judge of probate forthwith to deliver to his successor in trust, ward or any person lawfully entitled thereto, all the goods, chattels, money or effects of the deceased or ward in his hands,

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and who shall wilfully omit, neglect or refuse for 60 days to obey said orders, shall be deemed to have committed the crime of embezzlement, and shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 10 years, or by fine not more than 5,000 dollars: Provided, That in case such order shall be appealed from, said period of 60 days shall be reckoned from the affirmance of the order in the circuit or supreme court.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.176.

Former law: See section 1 of Act 208 of 1889, being How., § 9191a; CL 1897, § 11610; CL 1915, § 15375; CL 1929, § 16983; and Act 51 of 1895.

750.177 Embezzlement by chattel mortgagor, vendee or lessee; penalty; enhanced sentence based on prior convictions.

Sec. 177. (1) A person shall not embezzle or fraudulently remove, conceal, or dispose of any personal property held by him or her subject to a chattel mortgage or written instrument intended to operate as a chattel mortgage, a lease or written instrument intended to operate as a lease, or a contract to purchase not yet fulfilled with intent to injure or defraud the mortgagee, lessor, or vendor under the contract or any assignee of the mortgagee, lessor, or vendor.

(2) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine:

(a) The property embezzled, removed, concealed, or disposed of has a value of $20,000.00 or more.

(b) The person violates subsection (3)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(3) 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 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine:

(a) The property embezzled, removed, concealed, or disposed of has a value of $1,000.00 or more but less than $20,000.00.

(b) The person violates subsection (4)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(4) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine:

(a) The property embezzled, removed, concealed, or disposed of has a value of $200.00 or more but less than $1,000.00.

(b) The person violates subsection (5) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(5) If the property embezzled, removed, concealed, or disposed of has a value of less than $200.00, 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 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine.

(6) Except as otherwise provided in this subsection, the values of property embezzled, removed, concealed, or disposed of in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property embezzled, removed, concealed, or disposed of. If the scheme or course of conduct is directed against only 1 mortgagee, lessor, or vendor, no time limit applies to aggregation under this subsection.

(7) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

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(8) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.177;—Am. 1959, Act 119, Eff. Mar. 19, 1960;—Am. 1998, Act 312, Eff. Jan. 1, 1999.

Former law: See section 1 of Act 179 of 1927, being CL 1929, § 16977.

750.178 Embezzlement of chattel mortgage, lease, or contract property by others; violation; penalty; enhanced sentence based on prior convictions.

Sec. 178. (1) A person shall not embezzle or fraudulently remove, conceal, or dispose of any personal property that has been mortgaged, leased, or purchased under a contract to purchase not yet fulfilled by another person knowing the personal property has been mortgaged, leased, or purchased and with the intent to injure or defraud the mortgagee, lessor, or vendor under the contract, or any assignee of the mortgagee, lessor, or vendor.

(2) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine:

(a) The property embezzled, removed, concealed, or disposed of has a value of $20,000.00 or more.

(b) The person violates subsection (3)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(3) 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 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine:

(a) The property embezzled, removed, concealed, or disposed of has a value of $1,000.00 or more but less than $20,000.00.

(b) The person violates subsection (4)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(4) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine:

(a) The property embezzled, removed, concealed, or disposed of has a value of $200.00 or more but less than $1,000.00.

(b) The person violates subsection (5) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(5) If the property embezzled, removed, concealed, or disposed of has a value of less than $200.00, 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 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine.

(6) Except as otherwise provided in this subsection, the values of property embezzled, removed, concealed, or disposed of in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property embezzled, removed, concealed, or disposed of. If the scheme or course of conduct is directed against only 1 mortgagee, lessor, or vendor, no time limit applies to aggregation under this subsection.

(7) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(8) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

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History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.178;—Am. 1959, Act 119, Eff. Mar. 19, 1960;—Am. 1998, Act 312, Eff. Jan. 1, 1999.

Former law: See section 2 of Act 179 of 1927, being CL 1929, § 16978.

750.179 Repealed. 2002, Act 294, Imd. Eff. May 9, 2002.

Compiler's note: The repealed section pertained to embezzlement of railroad passenger tickets.

750.180 Embezzlement in bank, deposit, trust company, or credit union; penalty.

Sec. 180. Any president, director, secretary, cashier, treasurer or other officer, teller, clerk, agent, receiver or conservator, or agent or employee of such receiver or conservator of any bank, trust company, credit union or safe or safety and collateral deposit company, who embezzles, abstracts or wilfully misapplies any of the moneys, funds, credits or property of the bank, trust company, credit union or safe or safety and collateral deposit company, whether owned by it or held in trust, or who, without authority of the directors or proper officers, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment or decree, or who makes any false entry in any book, report or statement of the bank, trust company, credit union or safe or safety and collateral deposit company with intent in either case to injure or defraud the bank, trust company, credit union or safe or safety and collateral deposit company or any company, corporation or person or to deceive any officer of the bank, trust company, credit union or safe or safety and collateral deposit company, or any agent, receiver or conservator, or agent or employee of such receiver or conservator appointed to examine the affairs of such bank, trust company, credit union or safe or safety and collateral deposit company; and any person who with like intent aids or abets any officer, clerk, agent, receiver or conservator, or agent or employee of such receiver or conservator, in violation of this section or who shall issue or cause to be issued or put in circulation, any bill, note or other evidence of debt to circulate as money, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 20 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1937, Act 164, Imd. Eff. July 9, 1937;—CL 1948, 750.180;—Am. 1960, Act 31, Eff. Aug. 17, 1960.

Former law: See section 66 of Act 66 of 1929, being CL 1929, § 11963; and section 41 of Act 67 of 1929, being CL 1929, § 12037.

750.181 Embezzlement of property belonging to person and part owner; violation; penalty; enhanced sentence based on prior convictions.

Sec. 181. (1) An agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector, or other person who receives or collects in any manner money or other personal property that is partly the property of another person, governmental entity within this state, or other legal entity and partly the property of the agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector, or other person shall not embezzle, fraudulently dispose of, convert to his or her own use, or take or secrete with intent to embezzle or convert to his or her own use the money or personal property without the consent of the part owner of the money or personal property.

(2) If the money or personal property embezzled, disposed of, converted, taken, or secreted has a value of less than $200.00, 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 3 times the value of the money or property embezzled, disposed of, converted, taken, or secreted, whichever is greater, or both imprisonment and a fine.

(3) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value of the money or property embezzled, disposed of, converted, taken, or secreted, whichever is greater, or both imprisonment and a fine:

(a) The money or personal property embezzled, disposed of, converted, taken, or secreted has a value of $200.00 or more but less than $1,000.00.

(b) The person violates subsection (2) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(4) 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 3 times the value of the money or property embezzled, disposed of, converted, taken, or secreted, whichever is greater, or both imprisonment and a fine:

(a) The money or personal property embezzled, disposed of, converted, taken, or secreted has a value of $1,000.00 or more but less than $20,000.00.

(b) The person violates subsection (3)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (2) or (3)(b).

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(5) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the money or property embezzled, disposed of, converted, taken, or secreted, whichever is greater, or both imprisonment and a fine:

(a) The money or personal property embezzled, disposed of, converted, taken, or secreted has a value of $20,000.00 or more.

(b) The person violates subsection (4)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (2) or (3)(b).

(6) Except as otherwise provided in this subsection, the values of money or property embezzled, disposed of, converted, taken, or secreted in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of money or personal property embezzled, disposed of, converted, taken, or secreted. If the scheme or course of conduct is directed against only 1 person, governmental entity within this state, or other legal entity, no time limit applies to aggregation under this subsection.

(7) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(8) In a prosecution under this section, it is not a defense that the agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector, or other person was entitled to a compensation out of the money or personal property as compensation for collecting or receiving it for its owner, but it is not embezzlement by the agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector, or other person to retain his or her reasonable collection fee on the collection or any other valid interest he or she has in the money or personal property.

(9) In a prosecution under this section, the failure, neglect, or refusal of the agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector, or other person to pay, deliver, or refund to the proper person the money or personal property entrusted to his or her care, upon demand, is prima facie proof of intent to embezzle.

(10) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.181;—Am. 1959, Act 119, Eff. Mar. 19, 1960;—Am. 1998, Act 312, Eff. Jan. 1, 1999.

Former law: See section 55 of Ch. 154 of R.S. 1846, being How., § 9176a; CL 1897, § 11591; CL 1915, § 15336; CL 1929, § 16932; Act 110 of 1885; and Act 114 of 1897.

750.182 Embezzlement by warehouseman or forwarder of property receipted for.

Sec. 182. Embezzlement or conversion by warehouseman or forwarder of property receipted for—Any warehouseman or forwarder, or other person who shall have issued a receipt or certificate for flour, wheat, pot or pearl ashes, or any grain, produce or thing of value, or shall receive property on deposit or for sale on a specific contract or understanding, and shall, after issuing said receipt or certificate or receiving such property, embezzle, dispose of or convert to his own use, such property or the moneys received on the sale of such property, contrary to such receipt or certificate, or to the previous contract or understanding, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.182.

Former law: See section 37 of Ch. 154 of R.S. 1846, being CL 1857, § 5781; CL 1871, § 7588; How., § 9159; CL 1897, § 11573; CL 1915, § 15318; CL 1929, § 16914; and Act 270 of 1881.

750.182a Falsification of school records; penalty; suspension of teacher's certificate.

Sec. 182a. Any officer or employee of a school district who shall wilfully falsify any record required to be kept under the provisions of Act No. 26 of the Public Acts of the First Extra Session of 1948, as amended, being sections 388.1 to 388.41, inclusive, of the Compiled Laws of 1948, or any other school law of this state,

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having a bearing on school aid, shall be guilty of a misdemeanor, punishable by a fine of not more than $2,500.00 or imprisonment in state prison for not more than 2 years, or both, in the discretion of the court. The teacher's certificate of any person who shall be convicted of wilfully falsifying any such record shall be suspended for a period of 5 years and for such additional period as the superintendent of public instruction may determine.

History: Add. 1953, Act 90, Imd. Eff. May 19, 1953.

CHAPTER XXXII
ESCAPES, RESCUES, JAIL AND PRISON BREAKING

750.183 Facilitating escape of or assisting prisoners; penalty.

Sec. 183. Any person who conveys into any jail, prison, or other like place of confinement, any disguise or any instrument, tool, weapon, or other thing, adapted or useful to aid any prisoner in making his or her escape, with intent to facilitate the escape of any prisoner there lawfully committed or detained, or shall by any means whatever, aid or assist any prisoner in his or her endeavor to escape therefrom, whether such escape be effected or attempted, or not, and every person who shall forcibly rescue any prisoner, held in custody upon any conviction or charge of an offense, is guilty of a felony punishable by imprisonment in the state prison not more than 7 years; or, if the person whose escape or rescue was effected or intended, was charged with an offense not capital, nor punishable by imprisonment in the state prison, then the offense mentioned in this section shall be a misdemeanor and shall be punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.183;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 11 of Ch. 156 of R.S. 1846, being CL 1857, § 5830; CL 1871, § 7663; How., § 9245; CL 1897, § 11315; CL 1915, § 14982; and CL 1929, § 16573.

750.184 Aiding escape from officer; penalty.

Sec. 184. Any person who shall aid or assist any prisoner in escaping or attempting to escape from any officer or person who shall have the lawful custody of such prisoner is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.184;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 12 of Ch. 156 of R.S. 1846, being CL 1857, § 5831; CL 1871, § 7664; How., § 9246; CL 1897, § 11316; CL 1915, § 14983; and CL 1929, § 16574.

750.185 Girls' training school at Adrian; aiding escape of inmates; marriage without consent of superintendent; penalty.

Sec. 185. Any person, not an inmate, who shall knowingly aid or assist any girl who is an inmate of the girls' training school at Adrian, Michigan, to escape therefrom, or who shall knowingly aid, entice or assist any girl who has been committed to said school, and who is a subject thereof, to escape from any other home or other place where she has been placed by the officers of said training school, or shall knowingly aid or assist any such girl to leave this state, or shall marry any such girl, knowing her to be an inmate or a subject of such training school, without the consent of the superintendent of such training school, shall be guilty of a misdemeanor punishable by a fine of not more than $1,000.00 or imprisonment for not more than 1 year in the county jail, or both.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.185;—Am. 1953, Act 114, Eff. Oct. 2, 1953.

Former law: See section 21 of Act 133 of 1879, being CL 1897, § 2216; CL 1915, § 1928; CL 1929, § 17839; Act 62 of 1893; and Act 156 of 1895.

750.186 Boys' vocational school; assisting or enticing to escape; aiding ward to leave state; penalty.

Sec. 186. Any person, not an inmate, who shall knowingly aid or assist any boy who is an inmate of boys' vocational school, to escape therefrom, or who shall knowingly aid, assist or entice any boy who has been committed to said school, and who is a subject thereof, to escape from a home in which said boy has been placed by officers of said school, or shall knowingly aid any such ward to leave the state, without the consent of the superintendent of said school, shall be guilty of a misdemeanor punishable by a fine of not more than $1,000.00 or imprisonment for not more than 1 year in the county jail, or both.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.186;—Am. 1953, Act 114, Eff. Oct. 2, 1953.

Former law: See section 18 of Act 143 of 1903, being CL 1915, § 1522; CL 1929, § 7954; and Act 47 of 1909.

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750.186a Escape from juvenile facility; violation as felony; penalty; "escape" and "juvenile facility" defined.

Sec. 186a. (1) An individual who is placed in a juvenile facility and who escapes or attempts to escape from that juvenile facility or from the custody of an employee of that juvenile facility 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.

(2) As used in this section:

(a) "Escape" means to leave without lawful authority or to fail to return to custody when required.

(b) "Juvenile facility" means a county facility, an institution operated as an agency of the county or the family division of circuit court, or an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, to which the individual has been committed under section 18(1)(e) of chapter XIIA of 1939 PA 288, MCL 712A.18, after coming within the court's jurisdiction under section 2(a)(1) of chapter XIIA of 1939 PA 288, MCL 712A.2, for an offense that if committed by an adult would be a felony or a misdemeanor or to which the individual has been committed under section 27a of chapter IV or section 1 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 764.27a and 769.1.

History: Add. 1996, Act 256, Eff. Jan. 1, 1997;—Am. 1998, Act 526, Imd. Eff. Jan. 12, 1999.

750.187 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

Compiler's note: The repealed section pertained to aiding inmate to escape from state institution.

750.188 Voluntarily suffering prisoner to escape.

Sec. 188. Voluntarily suffering prisoner to escape—Any jailor, or other officer who shall voluntarily suffer any prisoner in his custody, upon conviction, or upon any criminal charge, to escape, shall suffer the like punishment and penalties as the prisoner so suffered to escape was sentenced to, or would be liable to suffer upon conviction, for the crime or offense wherewith he stood charged.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.188.

Former law: See section 13 of Ch. 156 of R.S. 1846, being CL 1857, § 5832; CL 1871, § 7665; How., § 9247; CL 1897, § 11317; CL 1915, § 14984; and CL 1929, § 16575.

750.189 Negligently suffering escape; refusing to receive prisoner.

Sec. 189. Negligently suffering escape and refusing to receive a prisoner—Any jailor or other officer who shall through negligence, suffer any prisoner in his custody upon conviction or upon any criminal charge, to escape, or who shall wilfully refuse to receive into his custody any prisoner lawfully committed thereto, on any criminal charge or conviction, or any lawful process whatever, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 2 years, or by fine of not more than 1,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.189.

Former law: See section 14 of Ch. 156 of R.S. 1846, being CL 1857, § 5833; CL 1871, § 7666; How., § 9248; CL 1897, § 11318; CL 1915, § 14985; and CL 1929, § 16576.

750.190 Receiving reward for assisting an escape.

Sec. 190. Receiving reward for assisting an escape—Any sheriff or other officer, who shall demand or receive any reward, gratuity or valuable thing, to procure, assist, connive at or permit any escape of any prisoner in his custody, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 2 years, or by fine of not more than 1,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.190.

Former law: See section 47 of Ch. XXV of Act 314 of 1915, being CL 1915, § 13025; and CL 1929, § 14754.

750.191 Refusing, omitting, and delaying to serve process.

Sec. 191. Any officer authorized to serve process, who willfully and corruptly refuses to execute any lawful process to him or her directed, and requiring him or her to apprehend or confine any person convicted or charged with an offense, or who willfully and corruptly omits or delays to execute such process, whereby such person shall escape and go at large, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.191;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 15 of Ch. 156 of R.S. 1846, being CL 1857, § 5834; CL 1871, § 7667; How., § 9249; CL 1897, § 11319; CL 1915, § 14986; and CL 1929, § 16577.

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750.192 Prisoners of Wisconsin being transported.

Sec. 192. It shall be lawful for any sheriff, coroner, constable, or other officer of the state of Wisconsin or other person lawfully authorized under the laws of the state of Wisconsin to act as any such officer, having in his or her lawful custody any person or persons, arrested in the state of Wisconsin, under a criminal warrant or process, or under any writ, order, or process in a civil action or proceeding, issued out of or by any court of said state of Wisconsin, or by any officer of said state of Wisconsin, authorized to issue such warrant, writ, process, or order, to convey or transport the prisoner through any portion of the state of Michigan, whenever it shall be necessary or convenient so to do in order to bring the prisoner before any such court or officer of the state of Wisconsin, or to deliver the prisoner to any jailor, or commit the prisoner to any prison of said state of Wisconsin, for any lawful purpose whatsoever. Any such officer of the state of Wisconsin, while in the state of Michigan with any prisoner or prisoners in the officer's custody for the purposes aforesaid, has all the rights and powers in relation to such prisoner or prisoners as would a sheriff of this state.

An officer of this state shall not discharge any such prisoner from custody under writ of habeas corpus or other proceeding brought for that purpose, when it shall be made to appear that the prisoner is in custody as in the preceding paragraph stated. And it shall be a sufficient answer to said writ of habeas corpus or other proceeding, by the officer or person having such custody, that he or she holds the prisoner by virtue of a lawful warrant, writ, process, or order as in the preceding paragraph stated, and he or she shall annex to the answer a copy of the warrant, writ, process, or order under which he or she claims custody of the prisoner.

Any person who shall in any manner aid or assist a prisoner so being conveyed or transported through this state to escape from the officer or person having the prisoner so in lawful custody, or who resists the officer or person while engaged in conveying or transporting the prisoner through this state, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.192;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 1 to 3 of Act 8 of 1881, being How., §§ 9364 to 9366; CL 1897, §§ 11393 to 11395; CL 1915, §§ 15111 to 15113; and CL 1929, §§ 16591 to 16593.

750.193 Breaking prison, escaping, attempting to break prison, or attempting to escape as felony; penalty; place of trial; "prison" defined; escaping from lawful custody outside confines of prison; escape from mental health facility; violation by person released under work pass program; person violating parole not escapee.

Sec. 193. (1) A person imprisoned in a prison of this state who breaks prison and escapes, breaks prison though an escape is not actually made, escapes, leaves the prison without being discharged by due process of law, attempts to break prison, or attempts to escape from prison, is guilty of a felony, punishable by further imprisonment for not more than 5 years. The term of the further imprisonment shall be served after the termination, pursuant to law, of the sentence or sentences then being served. A prisoner who breaks prison, escapes, attempts to break prison, or attempts to escape, shall be charged with that offense and tried in the courts of the county in which the prison or penal facility to which the prisoner was committed or transferred is located at the time of the breaking, escape, or attempt to break or escape.

(2) As used in this section, "prison" means a facility that houses prisoners committed to the jurisdiction of the department of corrections and includes the grounds, farm, shop, road camp, or place of employment operated by the facility or under control of the officers of the facility, the department of corrections, a police officer of this state, or any other person authorized by the department of corrections to have a prisoner under care, custody, or supervision, either in a facility or outside a facility, whether for the purpose of work, medical care, or any other reason.

(3) A person who escapes from the lawful custody of a guard, prison official, or an employee while outside the confines of a prison is guilty of a violation of this section. A person, admitted to a facility of the department of mental health from a prison pursuant to sections 1001 to 1006 of the mental health code, 1974 PA 258, MCL 330.2001 to 330.2006, who escapes from the mental health facility is guilty of a violation of this section. A person released from prison under a work pass program who violates the terms of the release or fails to return to the place of imprisonment within the time provided is guilty of a violation of this section. A person violating the conditions of a parole is not an escapee under this act.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1943, Act 56, Eff. July 30, 1943;—CL 1948, 750.193;—Am. 1955, Act 264, Eff. Oct. 14, 1955;—Am. 1956, Act 6, Imd. Eff. Mar. 9, 1956;—Am. 1958, Act 215, Eff. Sept. 13, 1958;—Am. 1967, Act 103, Eff. Nov. 2, 1967;—Am. 1978, Act 631, Imd. Eff. Jan. 8, 1979;—Am. 1988, Act 167, Eff. July 1, 1988;—Am. 1998, Act 510, Imd. Eff. Jan. 8, 1999.

Former law: See section 24 of Ch. 156 of R.S. 1846, being CL 1857, § 5843; CL 1871, § 7676; How., § 9258; CL 1897, § 11328; CL 1915, § 14995; CL 1929, § 16586; Act 100 of 1925; and Act 7 of 1927.

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750.194 Repealed. 1985, Act 52, Imd. Eff. June 14, 1985.

Compiler's note: The repealed section pertained to escaping from Detroit house of correction.

750.195 Breaking, escaping, or leaving jail as felony; penalty; section inapplicable to person leaving jail pursuant to day parole; "jail" defined.

Sec. 195. (1) A person lawfully imprisoned in a jail for a term imposed for a misdemeanor who breaks jail and escapes, breaks jail though an escape is not actually made, escapes, leaves the jail without being discharged from the jail by due process of law, or attempts to escape from the jail, is guilty of a felony, punishable by imprisonment for not more than 2 years, or by a fine of not more than $1,000.00, or both.

(2) A person lawfully imprisoned in a jail for a term imposed for a felony who breaks jail and escapes, breaks jail though an escape is not actually made, escapes, leaves the jail without being discharged from the jail by due process of law, or attempts to escape from the jail, is guilty of a felony. A person who violates this subsection shall be imprisoned for the unexpired portion of the term of imprisonment the person was serving at the time of the violation, and any term of imprisonment imposed for the violation of this subsection shall begin to run at the expiration of that prior term of imprisonment.

(3) This section does not apply to a person who left the jail pursuant to a day parole granted for any purpose under section 1 of Act No. 60 of the Public Acts of 1962, being section 801.251 of the Michigan Compiled Laws, and who is absent from the jail after the time he or she was required to return to the jail unless the person has the intent to escape from imprisonment.

(4) As used in this section, "jail" means a facility that is operated by a local unit of government for the detention of persons charged with, or convicted of, criminal offenses or ordinance violations, or persons found guilty of civil or criminal contempt.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.195;—Am. 1987, Act 212, Eff. Mar. 30, 1988.

Former law: See sections 28 to 30 of Ch. 171 of R.S. 1846, being CL 1857, §§ 6156 to 6158; CL 1871, §§ 8045 to 8047; How., §§ 9661 to 9663; CL 1897, §§ 2677 to 2679; CL 1915, §§ 2548 to 2550; CL 1929, §§ 17694 to 17696; and Act 146 of 1875.

750.196 Breaking prison; county work farm, factory or shop.

Sec. 196. Breaking, escaping or attempting to break or escape from county work farms, etc.—Any person lawfully committed to any work farm, factory or shop established and provided by law by the various counties of this state for the confinement, punishment and reformation of persons sentenced thereto, who shall escape from or break away therefrom with intent to escape therefrom, or who shall attempt by any force or violence or in any other manner to break or escape from said work farm, factory or shop, whether such escape be effected or not, shall be guilty of a misdemeanor, punishable by imprisonment at said work farm, factory or shop or in the county jail of such county at the discretion of the court, for a term of not more than double the term for which he was so sentenced, to commence from and after the expiration of his former sentence.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.196.

Former law: See section 13 of Act 78 of 1917, being CL 1929, § 17732.

750.197 Breaking, escaping, or leaving jail or place of confinement; breaking or escaping while in or being transferred to or from courtroom or court house; felony; penalty; section inapplicable to person leaving jail pursuant to day parole; "jail" defined.

Sec. 197. (1) A person lawfully imprisoned in a jail or place of confinement established by law, awaiting examination, trial, arraignment, or sentence for a misdemeanor, who breaks the jail or place of confinement and escapes; who breaks the jail, although no escape is actually made; who escapes; who leaves the jail or place of confinement without being discharged from the jail or place of confinement by due process of law; who breaks or escapes while in or being transferred to or from a courtroom or courthouse, or a place where court is being held; or who attempts to break or escape from the jail or place of confinement is guilty of a felony, punishable by imprisonment for not more than 2 years, or by a fine of not more than $1,000.00, or both.

(2) A person lawfully imprisoned in a jail or place of confinement established by law, awaiting examination, trial, arraignment, or sentence for a felony; or after sentence for a felony awaiting or during transfer to or from a prison, who breaks the jail or place of confinement and escapes; who breaks the jail, although no escape is actually made; who escapes; who leaves the jail or place of confinement without being discharged from the jail or place of confinement by due process of law; who breaks or escapes while in or being transferred to or from a courtroom or courthouse, or a place where court is being held; or who attempts to break or escape from the jail or place of confinement is guilty of a felony. A term of imprisonment imposed for a violation of this subsection shall begin to run at the expiration of any term of imprisonment imposed for the offense for which the person was imprisoned at the time of the violation of this subsection.

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(3) This section does not apply to a person who left the jail pursuant to a day parole granted for any purpose under section 1 of Act No. 60 of the Public Acts of 1962, being section 801.251 of the Michigan Compiled Laws, and who is absent from the jail after the time he or she was required to return to the jail unless the person has the intent to escape from imprisonment.

(4) As used in this section, "jail" means a facility that is operated by a local unit of government for the detention of persons charged with, or convicted of, criminal offenses or ordinance violations, or persons found guilty of civil or criminal contempt.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.197;—Am. 1949, Act 240, Eff. Sept. 23, 1949;—Am. 1955, Act 264, Eff. Oct. 14, 1955;—Am. 1987, Act 212, Eff. Mar. 30, 1988.

Former law: See section 28 of Ch. 171 of R.S. 1846, being CL 1857, § 6156; CL 1871, § 8045; How., § 9661; CL 1897, § 2677; CL 1915, § 2548; CL 1929, § 17694; and Act 146 of 1875.

750.197a Breaking or escaping from lawful custody under criminal process.

Sec. 197a. A person who breaks or escapes from lawful custody under any criminal process, including periods while at large on bail, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: Add. 1955, Act 264, Eff. Oct. 14, 1955;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

750.197b Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

Compiler's note: The repealed section pertained to criminal sexual psychopathic person leaving state without permission.

750.197c Breaking or escaping jail, health care facility, or other place of confinement; definitions.

Sec. 197c. (1) A person lawfully imprisoned in a jail, other place of confinement established by law for any term, or lawfully imprisoned for any purpose at any other place, including but not limited to hospitals and other health care facilities or awaiting examination, trial, arraignment, sentence, or after sentence awaiting or during transfer to or from a prison, for a crime or offense, or charged with a crime or offense who, without being discharged from the place of confinement, or other lawful imprisonment by due process of law, through the use of violence, threats of violence or dangerous weapons, assaults an employee of the place of confinement or other custodian knowing the person to be an employee or custodian or breaks the place of confinement and escapes, or breaks the place of confinement although an escape is not actually made, is guilty of a felony.

(2) As used in this section:

(a) "Place of confinement" includes a youth correctional facility operated by the department of corrections or a private vendor under section 20g of 1953 PA 232, MCL 791.220g.

(b) "Employee" includes persons who are employed by the place of confinement as independent contractors.

History: Add. 1967, Act 59, Eff. Nov. 2, 1967;—Am. 1976, Act 188, Eff. Jan. 1, 1977;—Am. 1998, Act 510, Imd. Eff. Jan. 8, 1999.

750.198 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

Compiler's note: The repealed section pertained to conveying weapons or other implements into state mental institution.

750.199 Concealing or harboring one who has escaped.

Sec. 199. Concealing or harboring one who has escaped—Any person who knowingly or wilfully conceals or harbors for purpose of concealment, any person mentioned in this chapter, who has escaped or is escaping from lawful custody, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.199.

750.199a Absconding or forfeiting bond in criminal or paternity proceedings; felony.

Sec. 199a. Any person who shall abscond on or forfeit a bond given in any criminal proceedings wherein a felony is charged shall be deemed guilty of a felony. Any person who shall abscond on or forfeit a recognizance or cash deposit made in lieu thereof in paternity proceedings pursuant to the provisions of Act No. 205 of the Public Acts of 1956, as amended, being sections 722.711 to 722.730 of the Compiled Laws of 1948, shall be guilty of a felony.

History: Add. 1949, Act 94, Eff. Sept. 23, 1949;—Am. 1962, Act 79, Eff. Mar. 28, 1963.

CHAPTER XXXIII

EXPLOSIVES AND BOMBS, AND HARMFUL DEVICES

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750.200 Explosives; common carriers for passengers; transportation.

Sec. 200. (1) A person shall not transport, carry, or convey dynamite, gunpowder, or any other explosive between any places within this state on any vessel, car, or vehicle of any description that is operated by a common carrier and that is carrying passengers for hire. A person who violates this section is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $3,000.00, or both.

(2) This section does not prohibit the transportation of any of the following:

(a) Small arms ammunition in any quantity.

(b) Fuses, torpedoes, rockets, or other signal devices essential to promote safety in operation.

(c) Properly packed and marked samples for laboratory examination that do not exceed a net weight of 1/2 pound each and that do not exceed 20 samples at 1 time in a single vessel, car, or vehicle if the samples are not carried in that part of a vessel, car, or vehicle that is intended for transporting passengers for hire.

(3) This section does not prohibit the transportation of military or naval forces with their accompanying munitions of war on passenger equipment vessels, cars, or vehicles.

(4) This section does not apply to the transportation of benzine, naphtha, gasoline, or kerosene.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.200;—Am. 1998, Act 206, Eff. Oct. 1, 1998.

Former law: See section 1 of Act 182 of 1909, being CL 1915, § 15251; and CL 1929, § 16795.

750.200h Definitions.

Sec. 200h. As used in this chapter:

(a) "Chemical irritant" means solid, liquid, or gas that through its chemical or physical properties, alone or in combination with 1 or more other substances, can be used to produce an irritant effect in humans, animals, or plants.

(b) "Chemical irritant device" means a device designed or intended to release a chemical irritant.

(c) "Computer", "computer network", and "computer system" mean those terms as defined in section 145d.

(d) "Deliver" means that actual or constructive transfer of a substance or device from 1 person to another regardless of any agency relationship.

(e) "For an unlawful purpose" includes, but is not limited to, having the intent to do any of the following:

(*i*) Frighten, terrorize, intimidate, threaten, harass, injure, or kill any person.

(*ii*) Damage or destroy any real or personal property without the permission of the property owner or, if the property is public property, without the permission of the governmental agency having authority over the property.

(f) "Harmful biological device" means a device designed or intended to release a harmful biological substance.

(g) "Harmful biological substance" means a bacteria, virus, or other microorganism or a toxic substance derived from or produced by an organism that can be used to cause death, injury, or disease in humans, animals, or plants.

(h) "Harmful chemical device" means a device that is designed or intended to release a harmful chemical substance.

(i) "Harmful chemical substance" means a solid, liquid, or gas that through its chemical or physical properties, alone or in combination with 1 or more other chemical substances, can be used to cause death, injury, or disease in humans, animals, or plants.

(j) "Harmful radioactive material" means material that is radioactive and that can be used to cause death, injury, or disease in humans, animals, or growing plants by its radioactivity.

(k) "Harmful electronic or electromagnetic device" means a device designed to emit or radiate or that, as a result of its design, emits or radiates an electronic or electromagnetic pulse, current, beam, signal, or microwave that is intended to cause harm to others or cause damage to, destroy, or disrupt any electronic or telecommunications system or device, including, but not limited to, a computer, computer network, or computer system.

(*l*) "Harmful radioactive device" means a device that is designed or intended to release a harmful radioactive material.

(m) "Imitation harmful substance or device" means a substance or device that is designed or intended to represent 1 or more of the following or that is alleged to be 1 of the following but that is not any of the following:

(*i*) A harmful biological device.

(*ii*) A harmful biological substance.

(*iii*) A harmful chemical device.

(*iv*) A harmful chemical substance.

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(*v*) A harmful radioactive material.

(*vi*) A radioactive device.

(*vii*) A harmful electronic or electromagnetic device.

(n) "Serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(o) "Telecommunications system" means that term as defined in section 219a.

History: Add. 1998, Act 207, Eff. Oct. 1, 1998;—Am. 2001, Act 135, Imd. Eff. Oct. 23, 2001;—Am. 2003, Act 256, Eff. Jan. 1, 2004.

750.200i Unlawful acts; penalties.

Sec. 200i. (1) A person shall not manufacture, deliver, possess, transport, place, use, or release any of the following for an unlawful purpose:

(a) A harmful biological substance or a harmful biological device.

(b) A harmful chemical substance or a harmful chemical device.

(c) A harmful radioactive material or a harmful radioactive device.

(d) A harmful electronic or electromagnetic device.

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

(a) Except as provided in subdivisions (b) to (e), 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.

(b) If the violation directly or indirectly results in property damage, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $15,000.00, or both.

(c) If the violation directly or indirectly results in personal injury to another individual other than serious impairment of a body function or death, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than $20,000.00, or both.

(d) If the violation directly or indirectly results in serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than $25,000.00, or both.

(e) If the violation directly or indirectly results in the death of another individual, the person is guilty of a felony and shall be punished by imprisonment for life without eligibility for parole and may be fined not more than $40,000.00, or both.

History: Add. 1998, Act 207, Eff. Oct. 1, 1998;—Am. 2003, Act 257, Eff. Jan. 1, 2004.

750.200j Additional unlawful acts; penalties.

Sec. 200j. (1) A person shall not manufacture, deliver, possess, transport, place, use, or release for an unlawful purpose any of the following:

(a) A chemical irritant or a chemical irritant device.

(b) A smoke device.

(c) An imitation harmful substance or device.

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

(a) Except as provided in subdivisions (b) to (e), the person 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.

(b) If the violation results in property damage, the person is guilty of a felony punishable by imprisonment for not more than 7 years or a fine of not more than $10,000.00, or both.

(c) If the violation results in personal injury to another individual other than serious impairment of a body function or death, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00, or both.

(d) If the violation results in serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than $25,000.00, or both.

(e) If the violation results in the death of another individual, the person is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than $40,000.00, or both.

History: Add. 1998, Act 207, Eff. Oct. 1, 1998;—Am. 2001, Act 135, Imd. Eff. Oct. 23, 2001.

750.200k Applicability of §§ 750.200h to 750.200j; exceptions.

Sec. 200k. (1) Sections 200h to 200j do not apply to any of the following:

(a) A member of the military forces of the United States or of this state acting under a lawful order or while engaged in a lawful military activity.

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(b) A law enforcement officer enforcing the laws of the United States or of this state or while engaged in a lawful law enforcement activity.

(c) A person engaged in self-defense or the lawful defense of another person.

(d) Unless acting with an unlawful purpose, a person acting within the scope of his or her employment under a rule or a permit or license of the United States or of this state.

(2) Unless acting with an unlawful purpose, a person who within the scope of his or her employment violates a rule or a provision of a permit or license issued by the United States or this state to manufacture, deliver, possess, transport, place, classify, label, use, or release a substance or device shall not be prosecuted under this chapter.

(3) This chapter does not prohibit the possession and use of a device that uses electro-muscular disruption technology as permitted under section 224a.

History: Add. 1998, Act 207, Eff. Oct. 1, 1998;—Am. 2003, Act 257, Eff. Jan. 1, 2004.

750.200*l* Acts causing false belief of exposure; violation; penalty.

Sec. 200*l*. (1) A person shall not commit an act with the intent to cause an individual to falsely believe that the individual has been exposed to a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, harmful radioactive device, or harmful electronic or electromagnetic device.

(2) A person who violates subsection (1) 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.

History: Add. 2001, Act 135, Imd. Eff. Oct. 23, 2001;—Am. 2003, Act 257, Eff. Jan. 1, 2004.

750.200m Other violations arising from same transaction.

Sec. 200m. A charge under or a conviction or punishment for a violation of this chapter does not prevent a person from being charged with, convicted of, or punished for any other violation of law arising from the same transaction.

History: Add. 2003, Act 257, Eff. Jan. 1, 2004.

750.201 Explosives exploded by concussion or friction; unlawful acts; penalties.

Sec. 201. (1) A person shall not order, send, take, transport, convey, or carry or attempt to order, send, take, transport, convey, or carry dynamite, nitroglycerine, fulminate in bulk in dry condition, or any other explosive substance that explodes by concussion or friction, that is concealed as freight or baggage, on a passenger boat or vessel, a railroad car or train of cars, a street car, motor bus, stage, or other vehicle used wholly or partly for carrying passengers or articles of commerce by land or water.

(2) A person who violates this section and any consignee to whom the dynamite, nitroglycerine, fulminate in bulk in dry condition, or other explosive substance has been consigned by procurement in violation of this section is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $3,000.00, or both.

(3) A violation of this section may be prosecuted in any county through which the person procures or attempts to procure the transportation of the dynamite, nitroglycerine, fulminate in bulk in dry condition, or other explosive substance.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.201;—Am. 1998, Act 206, Eff. Oct. 1, 1998.

Former law: See sections 1 to 3 of Act 91 of 1889, being How., §§ 9117a to 9117c; CL 1897, §§ 11519 to 11521; CL 1915, §§ 15257 to 15259; and CL 1929, §§ 16792 to 16794.

750.202 Explosives; marking when intended for shipment.

Sec. 202. Marking of explosives intended for shipment—Every package containing explosives or other dangerous articles when presented to a common carrier for shipment shall have plainly marked on the outside thereof the contents thereof, and it shall be unlawful for any person, partnership or corporation to deliver for transportation to any common carrier engaged in commerce by land or water, or to cause to be delivered or to carry any explosive or other dangerous article, under any false or deceptive marking, description, invoice, shipping order or other declaration, or without informing the agent of such carrier of the true character thereof, at or before the time such delivery or carriage is made.

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

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.202.

Former law: See sections 4 and 5 of Act 182 of 1909, being CL 1915, §§ 15254 and 15255; and CL 1929, §§ 16798 and 16799.

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750.203 Explosives; regulations of interstate commerce commission.

Sec. 203. Regulations of interstate commerce commission—The regulations formulated by the interstate commerce commission, pursuant to section 2 of an act of congress, public numbered 174, approved May 30, 1908, shall be binding upon all common carriers engaged in intrastate commerce within the state of Michigan, which transport explosives by land.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.203.

Compiler's note: For provisions of the congressional act referred to in this section, see 18 U.S.C. § 382 et seq.

Former law: See section 2 of Act 182 of 1909, being CL 1915, § 15252; and CL 1929, § 16796.

750.204 Explosives; sending with intent to kill or injure persons or damage property; penalties.

Sec. 204. (1) A person shall not send or deliver to another person or cause to be taken or received by any person any kind of explosive substance or any other dangerous thing with the intent to frighten, terrorize, intimidate, threaten, harass, injure, or kill any person, or with the intent to damage or destroy any real or personal property without the permission of the property owner or, if the property is public property, without the permission of the governmental agency having authority over that property.

(2) A person who violates this section is guilty of a crime as follows:

(a) Except as otherwise provided in subdivisions (b) to (e), 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.

(b) If the violation damages the property of another person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $15,000.00, or both.

(c) If the violation causes physical injury to another individual, other than serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than $20,000.00, or both.

(d) If the violation causes serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than $25,000.00, or both.

(e) If the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for life without eligibility for parole and may be fined not more than $40,000.00, or both.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.204;—Am. 1998, Act 206, Eff. Oct. 1, 1998;—Am. 2003, Act 257, Eff. Jan. 1, 2004.

Former law: See section 1 of Act 202 of 1879, being How., § 9118; CL 1897, § 11508; CL 1915, § 15231; and CL 1929, § 16791.

750.204a Device representing or presented as explosive, incendiary device, or bomb; sending or transporting; intent; felony; penalty; jurisdiction.

Sec. 204a. (1) A person who, with the intent to terrorize, frighten, intimidate, threaten, harass, or annoy any other person, possesses, delivers, sends, transports, or places a device that is constructed to represent an explosive, incendiary device, or bomb, or that is presented as an explosive, incendiary device, or bomb, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $3,000.00, or both.

(2) An offense is committed under this section if the device is delivered or sent from this state or is possessed, transported, received, or placed in this state and may be prosecuted in the jurisdiction from which it was delivered or sent or in which it was possessed, transported, received, or placed.

History: Add. 1973, Act 202, Eff. Mar. 29, 1974;—Am. 1998, Act 208, Eff. Oct. 1, 1998;—Am. 2002, Act 134, Eff. Apr. 22, 2002.

750.205-750.206 Repealed. 1998, Act 208, Eff. Oct. 1, 1998.

Compiler's note: The repealed sections pertained to placement of explosives or devices representing explosives.

750.207 Explosive substances; placing with intent to destroy and causing injury to any person; permission of property owner or governmental agency; violation; penalties.

Sec. 207. (1) A person shall not place an explosive substance in or near any real or personal property with the intent to frighten, terrorize, intimidate, threaten, harass, injure, or kill any person, or with the intent to damage or destroy any real or personal property without the permission of the property owner or, if the property is public property, without the permission of the governmental agency having authority over that property.

(2) A person who violates this section is guilty of a crime as follows:

(a) Except as otherwise provided in subdivisions (b) to (e), 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.

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(b) If the violation damages the property of another person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $15,000.00, or both.

(c) If the violation causes physical injury to another individual, other than serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than $20,000.00, or both.

(d) If the violation causes serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or for any term of years or a fine of not more than $25,000.00, or both.

(e) If the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for life without eligibility for parole and may be fined not more than $40,000.00, or both.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.207;—Am. 1998, Act 208, Eff. Oct. 1, 1998;—Am. 2003, Act 257, Eff. Jan. 1, 2004.

Former law: See section 3 of Act 119 of 1927, being CL 1929, § 17106.

750.208 Repealed. 1998, Act 208, Eff. Oct. 1, 1998.

Compiler's note: The repealed section pertained to placing explosives or aiding or abetting with intent to destroy.

750.209 Offensive or injurious substance; placing with intent to injure, coerce, or interfere with person or property; violation; penalties; felony.

Sec. 209. (1) A person who places an offensive or injurious substance or compound in or near to any real or personal property with intent to wrongfully injure or coerce another person or to injure the property or business of another person, or to interfere with another person's use, management, conduct, or control of his or her business or property is guilty of a crime as follows:

(a) Except as otherwise provided in subdivisions (b) to (e), 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.

(b) If the violation damages the property of another person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $15,000.00, or both.

(c) If the violation causes physical injury to another individual, other than serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than $20,000.00, or both.

(d) If the violation causes serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or for any term of years or a fine of not more than $25,000.00, or both.

(e) If the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for life without eligibility for parole and may be fined not more than $40,000.00, or both.

(2) A person who places an offensive or injurious substance or compound in or near to any real or personal property with the intent to annoy or alarm any person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $3,000.00, or both.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1937, Act 41, Eff. Oct. 29, 1937;—CL 1948, 750.209;—Am. 1967, Act 177, Eff. Nov. 2, 1967;—Am. 1998, Act 208, Eff. Oct. 1, 1998;—Am. 2003, Act 257, Eff. Jan. 1, 2004.

Former law: See section 4 of Act 119 of 1927, being CL 1929, § 17107.

750.209a Possession of explosive substance or device in public place.

Sec. 209a. A person who, with the intent to terrorize, frighten, intimidate, threaten, harass, or annoy any other person, possesses an explosive substance or device in a public place 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.

History: Add. 1998, Act 206, Eff. Oct. 1, 1998.

750.209 Offensive or injurious substance; placing with intent to injure, coerce, or interfere with person or property; violation; penalties; felony.

Sec. 209. (1) A person who places an offensive or injurious substance or compound in or near to any real or personal property with intent to wrongfully injure or coerce another person or to injure the property or business of another person, or to interfere with another person's use, management, conduct, or control of his or her business or property is guilty of a crime as follows:

(a) Except as otherwise provided in subdivisions (b) to (e), 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.

(b) If the violation damages the property of another person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $15,000.00, or both.

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(c) If the violation causes physical injury to another individual, other than serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than $20,000.00, or both.

(d) If the violation causes serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or for any term of years or a fine of not more than $25,000.00, or both.

(e) If the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for life without eligibility for parole and may be fined not more than $40,000.00, or both.

(2) A person who places an offensive or injurious substance or compound in or near to any real or personal property with the intent to annoy or alarm any person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $3,000.00, or both.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1937, Act 41, Eff. Oct. 29, 1937;—CL 1948, 750.209;—Am. 1967, Act 177, Eff. Nov. 2, 1967;—Am. 1998, Act 208, Eff. Oct. 1, 1998;—Am. 2003, Act 257, Eff. Jan. 1, 2004.

Former law: See section 4 of Act 119 of 1927, being CL 1929, § 17107.

750.210 Substance that when combined will become explosive or combustible; possession with intent to use unlawfully; violation; penalties.

Sec. 210. (1) A person shall not carry or possess an explosive or combustible substance or a substance or compound that when combined with another substance or compound will become explosive or combustible or an article containing an explosive or combustible substance or a substance or compound that when combined with another substance or compound will become explosive or combustible, with the intent to frighten, terrorize, intimidate, threaten, harass, injure, or kill any person, or with the intent to damage or destroy any real or personal property without the permission of the property owner or, if the property is public property, without the permission of the governmental agency having authority over that property.

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

(a) Except as provided in subdivisions (b) to (e), 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.

(b) If the violation damages the property of another person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $15,000.00, or both.

(c) If the violation causes physical injury to another individual, other than serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than $20,000.00, or both.

(d) If the violation causes serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or for any term of years or a fine of not more than $25,000.00, or both.

(e) If the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for life without eligibility for parole and may be fined not more than $40,000.00, or both.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.210;—Am. 1998, Act 208, Eff. Oct. 1, 1998;—Am. 2003, Act 257, Eff. Jan. 1, 2004.

Former law: See section 6 of Act 119 of 1927, being CL 1929, § 17109.

750.210a Valerium; unlawful acts.

Sec. 210a. Sale, etc., of valerium, etc.—It shall be unlawful for any person, firm, partnership, association or corporation to sell, offer for sale, barter, or otherwise dispose of, purchase, receive, or otherwise acquire, have in possession, carry or transport any oil, tincture, elixir or fluid of valerium, valeric acid or crystals of ammonium valeriate, except under the following conditions:

(a) Drug manufacturers and wholesale drug dealers may possess, sell, offer for sale, or otherwise dispose of, oil, tincture, elixir or fluid of valerium, valeric acid or crystals of ammonium valeriate to licensed physicians and surgeons, druggists, pharmacists or hospitals: Provided, however, That a record of all such sales shall be kept by such drug manufacturers and wholesale dealers, which record shall be open to inspection by any law enforcing officer, and that a report of any such sales shall be made out and forwarded within 48 hours to the commissioner of the Michigan state police.

(b) Retail druggists or pharmacists may possess and sell, offer for sale, or otherwise dispose of, oil, tincture, elixir or fluid of valerium, valeric acid or crystals of ammonium valeriate upon prescription of a licensed physician or surgeon. Such retail druggists or pharmacists shall keep a record of all such sales and prescriptions, which shall be open to inspection by any law enforcing officer and shall also make and forward a report containing the names and addresses of such persons, together with the amount of such drugs prescribed or sold, within 48 hours after sale thereof to the commissioner of the Michigan state police.

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Any person, excepting licensed physicians and surgeons, hospitals, and persons who have received such drugs on prescription in accordance with the provisions of this section, who shall violate any of the provisions of this section shall be guilty of a felony, punishable by imprisonment in the state prison for not less than 2 nor more than 5 years.

History: Add. 1941, Act 140, Eff. Jan. 10, 1942;—CL 1948, 750.210a.

750.211 Repealed. 1998, Act 208, Eff. Oct. 1, 1998.

Compiler's note: The repealed section pertained to the intent to unlawfully use or manufacture explosives.

750.211a Device designed to explode upon impact, upon application of heat, or device highly incendiary; possession with intent to use unlawfully; violation; penalties; "Molotov cocktail" defined.

Sec. 211a. (1) A person shall not do either of the following:

(a) Except as provided in subdivision (b), manufacture, buy, sell, furnish, or possess a Molotov cocktail or any similar device.

(b) Manufacture, buy, sell, furnish, or possess any device that is designed to explode or that will explode upon impact or with the application of heat or a flame or that is highly incendiary, with the intent to frighten, terrorize, intimidate, threaten, harass, injure, or kill any person, or with the intent to damage or destroy any real or personal property without the permission of the property owner or, if the property is public property, without the permission of the governmental agency having authority over that property.

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

(a) For a violation of subsection (1)(a), 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.

(b) For a violation of subsection (1)(b) and except as provided in subdivisions (c) to (f), 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.

(c) If the violation damages the property of another person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $15,000.00, or both.

(d) If the violation causes physical injury to another individual, other than serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than $20,000.00, or both.

(e) If the violation causes serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than $25,000.00, or both.

(f) If the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for life without eligibility for parole and may be fined not more than $40,000.00, or both.

(3) As used in this section, "Molotov cocktail" means an improvised incendiary device that is constructed from a bottle or other container filled with a flammable or combustible material or substance and that has a wick, fuse, or other device designed or intended to ignite the contents of the device when it is thrown or placed near a target.

History: Add. 1966, Act 69, Eff. Mar. 10, 1967;—Am. 1968, Act 280, Eff. July 1, 1968;—Am. 1998, Act 206, Eff. Oct. 1, 1998;—Am. 2003, Act 257, Eff. Jan. 1, 2004;—Am. 2004, Act 523, Eff. Apr. 1, 2005.

750.212 High explosives; marking.

Sec. 212. Marking of high explosives—No person shall within this state manufacture, sell, keep or offer for sale any high explosive, which is not marked, branded or stamped as in this section provided.

Every manufacturer of dynamite, or other high explosive, shall put a brand or mark on each case distinctly showing the percentage of disruptive force contained in each cartridge in said case, and the name or trade mark, and the address of said manufacturer.

No person by himself, agents or servants shall sell, keep or offer for sale, any dynamite or other high explosive not branded or marked as provided in this section.

Any person, who shall falsely brand, mark, or stamp any such explosive, or who shall sell, keep or offer for sale, any high explosive bearing any false brand or mark, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.212.

Former law: See sections 1 to 4 of Act 101 of 1897, being CL 1897, §§ 5483 to 5486; CL 1915, §§ 7187 and 7203 to 7205; and CL 1929, §§ 8944 to 8947.

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750.212a Violation as felony; term of imprisonment; definitions.

Sec. 212a. (1) If a person violates this chapter and the violation is committed in or is directed at a vulnerable target, the person is guilty of a felony punishable by imprisonment for not more than 20 years. The court may order a term of imprisonment imposed under this section to be served consecutively to the term of imprisonment for the underlying violation.

(2) As used in this section, "vulnerable target" means any of the following:

(a) A child care center or day care center as defined in section 1 of 1973 PA 116, MCL 722.111.

(b) A health care facility or agency as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(c) A building or structure open to the general public.

(d) A church, synagogue, mosque, or other place of religious worship.

(e) A public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade 1 through 12.

(f) An institution of higher education.

(g) A stadium.

(h) A transportation structure or facility open to the public, including, but not limited to, a bridge, a tunnel, a public highway, or a railroad.

(i) An airport. As used in this subdivision, "airport" means that term as defined in section 2 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2.

(j) Port facilities. As used in this subdivision, "port facilities" means that term as defined in section 2 of the Hertel-Law-T. Stopczynski port authority act, 1978 PA 639, MCL 120.102.

(k) A public services facility. As used in this subdivision, "public services facility" means any of the following facilities whether publicly or privately owned:

(*i*) A natural gas refinery, natural gas storage facility, or natural gas pipeline.

(*ii*) An electric, steam, gas, telephone, power, water, or pipeline facility.

(*iii*) A nuclear power plant, nuclear reactor facility, or nuclear waste storage facility.

(*l*) A petroleum refinery, petroleum storage facility, or petroleum pipeline.

(m) A vehicle, locomotive or railroad car, aircraft, or watercraft used to provide transportation services to the public or to provide for the movement of goods in commerce.

(n) A building, structure, or other facility owned or operated by the federal government, by this state, or by a political subdivision or any other instrumentality of this state or of a local unit of government.

History: Add. 1998, Act 207, Eff. Oct. 1, 1998;—Am. 2002, Act 116, Eff. Apr. 22, 2002;—Am. 2002, Act 140, Eff. Apr. 22, 2002;—Am. 2003, Act 257, Eff. Jan. 1, 2004.

CHAPTER XXXIV
EXTORTION

750.213 Malicious threats to extort money.

Sec. 213. Malicious threats to extort money—Any person who shall, either orally or by a written or printed communication, maliciously threaten to accuse another of any crime or offense, or shall orally or by any written or printed communication maliciously threaten any injury to the person or property or mother, father, husband, wife or child of another with intent thereby to extort money or any pecuniary advantage whatever, or with intent to compel the person so threatened to do or refrain from doing any act against his will, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 20 years or by a fine of not more than 10,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.213.

Former law: See section 19 of Ch. 153 of R.S. 1846, being CL 1857, § 5729; CL 1871, § 7528; How., § 9093; CL 1897, § 11488; CL 1915, § 15210; CL 1929, § 16726; Act 188 of 1897; and Act 83 of 1925.

750.214 Extortion by public officers.

Sec. 214. Extortion by public officers—Any person who shall wilfully and corruptly demand and receive from another for performing any service, or any official duty, for which the fee or compensation is established by law, any greater fee or compensation than is allowed or provided for the same, and any public officer, for whom a salary is provided by law in full compensation for all services required to be performed by him, or by his clerks or deputies, who shall wilfully and corruptly demand and receive from any person any sum of money as a fee or compensation for any services required by law to be performed by him in his said office, or by his clerks or deputies, shall be guilty of a misdemeanor; but no prosecution for such offense shall be sustained unless it shall be commenced within 1 year next after the offense was committed.

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History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.214.

Former law: See section 22 of Ch. 156 of R.S. 1846, being CL 1857, § 5841; CL 1871, § 7674; How., § 9256; CL 1897, § 11326; CL 1915, § 14993; CL 1929, § 16584; and Act 179 of 1863.

CHAPTER XXXV
FALSE PERSONATION

750.215 False representation as peace officer or medical examiner; violation; penalty; "peace officer" defined.

Sec. 215. (1) An individual who is not a peace officer or a medical examiner shall not do any of the following:

(a) Perform the duties of a peace officer or a medical examiner.

(b) Represent to another person that he or she is a peace officer or a medical examiner for any unlawful purpose.

(c) Represent to another person that he or she is a peace officer or a medical examiner with the intent to compel the person to do or refrain from doing any act against his or her will.

(2) Except as provided in subsection (3), an individual who violates 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.

(3) An individual who, in violation of subsection (1), performs the duties of a peace officer to commit or attempt to commit a crime or represents to another person that he or she is a peace officer to commit or attempt to commit a crime is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

(4) A sentence imposed under subsection (3) may be ordered to be served consecutively to any term of imprisonment imposed for another violation arising from the same transaction.

(5) As used in this section, "peace officer" means any of the following:

(a) A sheriff or deputy sheriff of a county of this state or another state.

(b) An officer of the police department of a city, village, or township of this state or another state.

(c) A marshall of a city, village, or township.

(d) A constable.

(e) An officer of the Michigan state police.

(f) A conservation officer.

(g) A security employee employed by the state pursuant to section 6c of 1935 PA 59, MCL 28.6c.

(h) A motor carrier officer appointed pursuant to section 6d of 1935 PA 59, MCL 28.6d.

(i) A police officer or public safety officer of a community college, college, or university who is authorized by the governing board of that community college, college, or university to enforce state law and the rules and ordinances of that community college, college, or university.

(j) A park and recreation officer commissioned pursuant to section 1606 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1606.

(k) A state forest officer commissioned pursuant to section 83107 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.83107.

(*l*) A federal law enforcement officer.

(m) An investigator of the state department of attorney general.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.215;—Am. 1957, Act 41, Eff. Sept. 27, 1957;—Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991;—Am. 2002, Act 672, Eff. Mar. 31, 2003;—Am. 2003, Act 15, Eff. Sept. 1, 2003.

Former law: See section 18 of Ch. 156 of R.S. 1846, being CL 1857, § 5837; CL 1871, § 7670; How., § 9252; CL 1897, § 11322; CL 1915, § 14989; CL 1929, § 16580; and Act 67 of 1925.

750.216 Badge or uniform of state police; unauthorized wearing, exhibition, display, or use as misdemeanor; exception.

Sec. 216. A person who wears, exhibits, displays, or uses, for any purpose, the badge or uniform or a badge or uniform substantially identical to that prescribed by the department of state police for officers of the department, unless he or she is a member of the department, is guilty of a misdemeanor. However, this section shall not be construed to prohibit persons of the theatrical profession from wearing such badge or uniform in any playhouse or theatre while actually engaged in following that profession.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.216;—Am. 1985, Act 78, Eff. Mar. 31, 1986.

Compiler's note: The department of public safety, referred to in this section, was transferred to the Michigan state police by § 28.5.

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750.216a Badge or facsimile of badge of law enforcement agency; selling, furnishing, or possessing; violation as misdemeanor.

Sec. 216a. (1) A person shall not sell, furnish, or possess the badge, or facsimile of the badge, of any law enforcement agency unless any of the following occur:

(a) The person receiving or possessing the badge or facsimile is authorized to receive or possess the badge or facsimile by the chief officer of the law enforcement agency.

(b) The person receiving or possessing the badge or facsimile is a member of the law enforcement agency.

(c) The badge is a retirement badge.

(d) The badge is the badge of a deceased law enforcement officer.

(e) The person receiving or possessing the badge is a collector of badges. The badge shall be transported in a container or display case.

(2) A person who violates this section is guilty of a misdemeanor, punishable by a fine of not more than $100.00.

History: Add. 1985, Act 78, Eff. Mar. 31, 1986.

750.217 Disguising with intent to intimidate.

Sec. 217. Any person who in any manner disguises himself or herself with intent to obstruct the due execution of the law, or with intent to intimidate, hinder or interrupt any officer or any other person in the legal performance of his or her duty, or the exercise of his or her rights under the constitution and laws of this state, whether such intent be effected or not, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.217;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 19 of Ch. 156 of R.S. 1846, being CL 1857, § 5838; CL 1871, § 7671; How., § 9253; CL 1897, § 11323; CL 1915, § 14990; and CL 1929, § 16581.

750.217a Solicitation of information as to employment, residence, assets or earnings by false personation; penalty.

Sec. 217a. Any individual who on his own behalf, or as officer, agent, partner, employee, or representative of any entity, solicits or aids or abets another in soliciting information from any person as to his or any other person's place of employment, residence, assets or earnings, by any means whatever with the intent of misleading the person into believing that the information is being sought by or on behalf of, or for the purposes of, any governmental agency or commission is guilty of a misdemeanor.

History: Add. 1961, Act 62, Eff. Sept. 8, 1961.

750.217b Representation as public utility employee; felony; "public utility" defined.

Sec. 217b. (1) An individual who is not employed by a public utility shall not inform another individual or represent to another individual by uniform, identification, or any other means that he or she is employed by that public utility with intent to do 1 or more of the following:

(a) Gain or attempt to gain entry to a residence, building, structure, facility, or other property.

(b) Remain or attempt to remain in or upon a residence, building, structure, facility, or other property.

(c) Commit or attempt to commit a crime.

(2) An individual who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $1,000.00, or both.

(3) As used in this section, "public utility" means a utility that provides steam, gas, heat, electricity, water, cable television, telecommunications services, or pipeline services, whether privately, municipally, or cooperatively owned.

History: Add. 1997, Act 159, Eff. Jan. 1, 1998.

750.217c Legal process; impersonation, false representation, or action as public officer or employee; definitions.

Sec. 217c. (1) A person shall not impersonate, falsely represent himself or herself as, or falsely act as a public officer or public employee and prepare, issue, serve, execute, or otherwise act to further the operation of any legal process or unauthorized process that affects or purports to affect persons or property.

(2) Except as provided in subsection (3) or (4), a person who violates 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.

(3) A person who violates subsection (1) after a prior conviction for violating subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than $1,500.00, or

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both.

(4) A person who violates subsection (1) after 2 or more prior convictions for violating subsection (1) 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.

(5) This section does not prohibit a person from being charged with, convicted of, or sentenced for any other violation of law that individual commits while violating this section.

(6) This section does not prohibit individuals from assembling lawfully or lawful free expression of opinions or designation of group affiliation or association.

(7) As used in this section:

(a) "Lawful tribunal" means a tribunal created, established, authorized, or sanctioned by law or a tribunal of a private organization, association, or entity to the extent that the organization, association, or entity seeks in a lawful manner to affect only the rights or property of persons who are members or associates of that organization, association, or entity.

(b) "Legal process" means a summons, complaint, pleading, writ, warrant, injunction, notice, subpoena, lien, order, or other document issued or entered by or on behalf of a court or lawful tribunal or lawfully filed with or recorded by a governmental agency that is used as a means of exercising or acquiring jurisdiction over a person or property, to assert or give notice of a legal claim against a person or property, or to direct persons to take or refrain from an action.

(c) "Public employee" means an employee of this state, an employee of a city, village, township, or county of this state, or an employee of a department, board, agency, institution, commission, authority, division, council, college, university, court, school district, intermediate school district, special district, or other public entity of this state or of a city, village, township, or county in this state, but does not include a person whose employment results from election or appointment.

(d) "Public officer" means a person who is elected or appointed to any of the following:

(*i*) An office established by the state constitution of 1963.

(*ii*) A public office of a city, village, township, or county in this state.

(*iii*) A department, board, agency, institution, commission, court, authority, division, council, college, university, school district, intermediate school district, special district, or other public entity of this state or a city, village, township, or county in this state.

(e) "Unauthorized process" means either of the following:

(*i*) A document simulating legal process that is prepared or issued by or on behalf of an entity that purports or represents itself to be a lawful tribunal or a court, public officer, or other agency created, established, authorized, or sanctioned by law but that is not a lawful tribunal or a court, public officer, or other agency created, established, authorized, or sanctioned by law.

(*ii*) A document that would otherwise be legal process except that it was not issued or entered by or on behalf of a court or lawful tribunal or lawfully filed with or recorded by a governmental agency as required by law.

History: Add. 1998, Act 360, Eff. Jan. 1, 1999;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

750.217d False representation as registered or licensed health professional; intent; violation as felony; penalty.

Sec. 217d. An individual who is not a health professional licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, and who intentionally and falsely represents himself or herself to be a health professional licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, and provides a health care treatment, procedure, or service regulated under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, to another individual 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.

History: Add. 1999, Act 167, Eff. Mar. 10, 2000.

750.217e False identification as employee of family independence agency; violation; penalty.

Sec. 217e. (1) An individual who is not employed by the family independence agency shall not inform another individual or represent to another individual by identification or any other means that he or she is employed by the family independence agency with intent to do 1 or more of the following:

(a) Gain or attempt to gain entry to a residence, building, structure, facility, or other property.

(b) Remain or attempt to remain in or upon a residence, building, structure, facility, or other property.

(c) Gain or attempt to gain access to financial account information.

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(d) Commit or attempt to commit a crime.

(e) Obtain or attempt to obtain information to which the individual is not entitled under section 7 of the child protection law, 1975 PA 238, MCL 722.627.

(f) Gain access or attempt to gain access to a person less than 18 years of age or a vulnerable adult. As used in this subdivision, "vulnerable adult" means an individual age 18 or older 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.

(2) An individual who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $1,000.00, or both.

History: Add. 2001, Act 21, Eff. Sept. 1, 2001.

CHAPTER XXXVI

FALSE PRETENSES AND FALSE REPRESENTATION

750.218 False pretenses with intent to defraud; violation; penalty; enhanced sentence based on prior convictions; "false pretense" defined.

Sec. 218. (1) A person who, with the intent to defraud or cheat makes or uses a false pretense to do 1 or more of the following is guilty of a crime punishable as provided in this section:

(a) Cause a person to grant, convey, assign, demise, lease, or mortgage land or an interest in land.

(b) Obtain a person's signature on a forged written instrument.

(c) Obtain from a person any money or personal property or the use of any instrument, facility, article, or other valuable thing or service.

(d) By means of a false weight or measure obtain a larger amount or quantity of property than was bargained for.

(e) By means of a false weight or measure sell or dispose of a smaller amount or quantity of property than was bargained for.

(2) If the land, interest in land, money, personal property, use of the instrument, facility, article, or valuable thing, service, larger amount obtained, or smaller amount sold or disposed of has a value of less than $200.00, 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 3 times the value, whichever is greater, or both imprisonment and a fine.

(3) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value, whichever is greater, or both imprisonment and a fine:

(a) The land, interest in land, money, personal property, use of the instrument, facility, article, or valuable thing, service, larger amount obtained, or smaller amount sold or disposed of has a value of $200.00 or more but less than $1,000.00.

(b) The person violates subsection (2) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(4) 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 3 times the value, whichever is greater, or both imprisonment and a fine:

(a) The land, interest in land, money, personal property, use of the instrument, facility, article, or valuable thing, service, larger amount obtained, or smaller amount sold or disposed of has a value of $1,000.00 or more but less than $20,000.00.

(b) The person violates subsection (3)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (2) or (3)(b).

(5) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value, whichever is greater, or both imprisonment and a fine:

(a) The land, interest in land, money, personal property, use of the instrument, facility, article, or valuable thing, service, larger amount obtained, or smaller amount sold or disposed of has a value of $20,000.00 or more.

(b) The person violates subsection (4)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (2) or (3)(b).

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(6) The values of land, interest in land, money, personal property, use of the instrument, facility, article, or valuable thing, service, larger amount obtained, or smaller amount sold or disposed of in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value involved in the violation of this section.

(7) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(8) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(9) As used in this section, "false pretense" includes, but is not limited to, a false or fraudulent representation, writing, communication, statement, or message, communicated by any means to another person, that the maker of the representation, writing, communication, statement, or message knows is false or fraudulent. The false pretense may be a representation regarding a past or existing fact or circumstance or a representation regarding the intention to perform a future event or to have a future event performed.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.218;—Am. 1957, Act 69, Eff. Sept. 27, 1957;—Am. 1998, Act 312, Eff. Jan. 1, 1999;—Am. 2004, Act 154, Eff. Sept. 1, 2004.

Former law: See section 39 of Ch. 154 of R.S. 1846, being CL 1857, § 5783; CL 1871, § 7590; How., § 9161; CL 1897, § 11575; CL 1915, § 15320; CL 1929, § 16916; Act 164 of 1867; Act 218 of 1879; and Act 234 of 1895.

750.219 Financial condition; false statements.

Sec. 219. Any person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, who, either individually or in a representative capacity, does 1 or more of the following:

(a) Knowingly makes a false statement in writing to any person, firm or corporation engaged in banking or other business respecting his or her own financial condition or the financial condition of any firm or corporation with which he or she is connected as a member, director, officer, employee, or agent, for the purpose of procuring a loan or credit in any form or an extension of credit from the person, firm or corporation to whom the false statement is made, either for his or her own use or for the use of the firm or corporation with which he or she is connected as aforesaid.

(b) Having previously made, or having knowledge that another has previously made a statement in writing to any person, firm, or corporation engaged in banking or other business respecting his or her own financial condition or the financial condition of any firm or corporation with which he or she is connected as aforesaid, shall afterwards procure on faith of such statement from the person, firm, or corporation to whom the previous statement has been made, either for his or her own use or for the use of the firm or corporation with which he or she is so connected, a loan or credit in any form, or an extension of credit, knowing at the time of the procuring that the previously made statement is in any material particular false with respect to the present financial condition of himself or herself or of the firm or corporation with which he or she is so connected.

(c) Delivers to any note broker or other agent for the sale or negotiation of commercial paper, any statement in writing, knowing it to be false, respecting his or her own financial condition or the financial condition of any firm or corporation with which he or she is connected as aforesaid, for the purpose of having the statement used in furtherance of the sale, pledge, or negotiation of any note, bill, or other instrument for the payment of money made or endorsed or accepted or owned in whole or in part by him or her individually or by the firm or corporation with which he or she is so connected.

(d) Having previously delivered or having knowledge that another has previously delivered to any note broker or other agent for the sale or negotiation of commercial paper a statement in writing respecting his or her own financial condition or the financial condition of any firm or corporation with which he or she is connected as aforesaid, shall afterwards deliver to the note broker or other agent for the purpose of sale, pledge, or negotiation on faith of the statement, any note, bill, or other instrument for the payment of money made or endorsed or accepted or owned in whole or in part by himself or herself individually or by the firm or corporation with which he or she is so connected, knowing at the time that such previously delivered

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statement is in any material particular false as to the present financial condition of himself or herself or of such firm or corporation.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.219;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 25 of 1909, being CL 1915, § 15342; and CL 1929, § 16992.

750.219a Obtaining telecommunications services with intent to avoid charge; violation; separate incidents pursuant to scheme or course of conduct; enhanced sentence based on prior convictions; definitions.

Sec. 219a. (1) A person shall not knowingly obtain or attempt to obtain telecommunications service with intent to avoid, attempt to avoid, or cause another person to avoid or attempt to avoid any lawful charge for that telecommunications service by using any of the following:

(a) A telecommunications access device.

(b) An unlawful telecommunications access device.

(c) A fraudulent or deceptive scheme, pretense, method, or conspiracy, or any device or other means, including, but not limited to, any of the following:

(*i*) Using a false, altered, or stolen identification.

(*ii*) The use of a telecommunications access device to violate this section by a person other than the subscriber or lawful holder of the telecommunications access device under an exchange of anything of value to the subscriber or lawful holder to allow that unlawful use of the telecommunications access device.

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

(a) If the total value of the telecommunications service obtained or attempted to be obtained is less than $200.00, 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 3 times the total value of the telecommunications service obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the total value of the telecommunications service obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine:

(*i*) The total value of the telecommunications service obtained or attempted to be obtained is $200.00 or more but less than $1,000.00.

(*ii*) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or former section 219c or a local ordinance substantially corresponding to this section or former section 219c.

(c) 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 3 times the total value of the telecommunications service obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine:

(*i*) The total value of the telecommunications service obtained or attempted to be obtained is $1,000.00 or more but less than $20,000.00.

(*ii*) The person violates subdivision (b)(*i*) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the telecommunications service obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine:

(*i*) The total value of the telecommunications service obtained or attempted to be obtained is $20,000.00 or more.

(*ii*) The person violates subdivision (c)(*i*) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(3) The values of telecommunications service obtained or attempted to be obtained in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of the telecommunications service obtained or attempted to be obtained.

(4) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

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(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(5) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(6) As used in this section:

(a) "Telecommunications" and "telecommunications service" mean any service lawfully provided for a charge or compensation to facilitate the origination, transmission, retransmission, emission, or reception of signs, data, images, signals, writings, sounds, or other intelligence or equivalence of intelligence of any nature over any telecommunications system by any method, including, but not limited to, electronic, electromagnetic, magnetic, optical, photo-optical, digital, or analog technologies.

(b) "Telecommunications access device" means any of the following:

(*i*) Any instrument, device, card, plate, code, telephone number, account number, personal identification number, electronic serial number, mobile identification number, counterfeit number, or financial transaction device as defined in section 157m that alone or with another device can acquire, transmit, intercept, provide, receive, use, or otherwise facilitate the use, acquisition, interception, provision, reception, and transmission of any telecommunications service.

(*ii*) Any type of instrument, device, machine, equipment, technology, or software that facilitates telecommunications or which is capable of transmitting, acquiring, intercepting, decrypting, or receiving any telephonic, electronic, data, internet access, audio, video, microwave, or radio transmissions, signals, telecommunications, or services, including the receipt, acquisition, interception, transmission, retransmission, or decryption of all telecommunications, transmissions, signals, or services provided by or through any cable television, fiber optic, telephone, satellite, microwave, data transmission, radio, internet based or wireless distribution network, system, or facility, or any part, accessory, or component, including any computer circuit, security module, smart card, software, computer chip, pager, cellular telephone, personal communications device, transponder, receiver, modem, electronic mechanism or other component, accessory, or part of any other device that is capable of facilitating the interception, transmission, retransmission, decryption, acquisition, or reception of any telecommunications, transmissions, signals, or services.

(c) "Telecommunications service provider" means any of the following:

(*i*) A person or entity providing a telecommunications service, whether directly or indirectly as a reseller, including, but not limited to, a cellular, paging, or other wireless communications company or other person or entity which, for a fee, supplies the facility, cell site, mobile telephone switching office, or other equipment or telecommunications service.

(*ii*) A person or entity owning or operating any fiber optic, cable television, satellite, internet based, telephone, wireless, microwave, data transmission or radio distribution system, network, or facility.

(*iii*) A person or entity providing any telecommunications service directly or indirectly by or through any distribution systems, networks, or facilities.

(d) "Telecommunications system" means any system, network, or facility owned or operated by a telecommunications service provider, including any radio, telephone, fiber optic, cable television, satellite, microwave, data transmission, wireless, or internet based system, network, or facility.

(e) "Unlawful telecommunications access device" means any of the following:

(*i*) A telecommunications access device that is false, fraudulent, unlawful, not issued to a legitimate telecommunications access device subscriber account, or otherwise invalid or that is expired, suspended, revoked, canceled, or otherwise terminated if notice of the expiration, suspension, revocation, cancellation, or termination has been sent to the telecommunications access device subscriber.

(*ii*) Any phones altered to obtain service without the express authority or actual consent of the telecommunications service provider, a clone telephone, clone microchip, tumbler telephone, tumbler microchip, or wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use, acquisition, interception, or receipt of a telecommunications service without the express authority or actual consent of the telecommunications service provider.

(*iii*) Any telecommunications access device that has been manufactured, assembled, altered, designed, modified, programmed, or reprogrammed, alone or in conjunction with another device, so as to be capable of facilitating the disruption, acquisition, interception, receipt, transmission, retransmission, or decryption of a telecommunications service without the actual consent or express authorization of the telecommunications service provider, including, but not limited to, any device, technology, product, service, equipment, computer software, or component or part, primarily distributed, sold, designed, assembled, manufactured, modified,

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programmed, reprogrammed, or used for the purpose of providing the unauthorized receipt of, transmission of, interception of, disruption of, decryption of, access to, or acquisition of any telecommunications service provided by any telecommunications service provider.

(*iv*) Any type of instrument, device, machine, equipment, technology, or software that is primarily designed, assembled, developed, manufactured, sold, distributed, possessed, used, or offered, promoted, or advertised, for the purpose of defeating or circumventing any technology, device, or software, or any component or part, used by the provider, owner, or licensee of any telecommunications service or of any data, audio, or video programs or transmissions, to protect any such telecommunications, data, audio, or video services, programs, or transmissions from unauthorized receipt, acquisition, interception, access, decryption, disclosure, communication, transmission, or retransmission.

(f) "Value of the telecommunications service obtained or attempted to be obtained" includes, but is not limited to, all of the following:

(*i*) Any lawful charge for telecommunications services avoided or attempted to be avoided.

(*ii*) The value of any other money, property, or telecommunications service lost, stolen, or rendered unrecoverable by the violation.

(*iii*) Any actual expenditure incurred by the victim to verify that a telecommunications device or telecommunications access device or telecommunications service was not altered, acquired, damaged, disrupted, destroyed, or stolen as a result of the violation.

(*iv*) The value of all telecommunications services available to the violator and others as a result of the violation.

History: Add. 1961, Act 93, Eff. Sept. 8, 1961;—Am. 1967, Act 255, Eff. Nov. 2, 1967;—Am. 1996, Act 330, Eff. Apr. 1, 1997;—Am. 1998, Act 312, Eff. Jan. 1, 1999;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

750.219b Repealed. 1967, Act 255, Eff. Nov. 2, 1967.

Compiler's note: The repealed section prescribed notice of revocation of credit card number or device.

750.219c Repealed. 1996, Act 330, Eff. Apr. 1, 1997.

Compiler's note: The repealed section pertained to use of telecommunication equipment with intent to avoid payment.

750.219e Prohibited conduct; violation as felony; penalty; exception; "financial institution" defined.

Sec. 219e. (1) Except as otherwise provided by law, a person shall not do any of the following:

(a) Prepare or submit an application for a loan or other extension of credit in another person's name without authorization from that other person.

(b) Receive or possess an application for a loan or other extension of credit knowing or having reason to know the application was prepared or submitted in violation of subsection (1).

(c) Receive or possess any instrument or device for accessing the proceeds of a loan or other extension of credit knowing or having reason to know the instrument or device was obtained as a result of a violation of subsection (1).

(2) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both.

(3) Subsection (1) does not apply to a financial institution or an affiliate, licensee, or franchisee of a financial institution or to a director, officer, or employee of a financial institution or an affiliate, licensee, or franchisee of a financial institution who does any of the following:

(a) Prepares or submits an application in another person's name without prior actual knowledge that the application is being prepared or was prepared in violation of subsection (1).

(b) Submits an application prepared in another person's name to a federal, state, or local law enforcement agency or regulatory agency.

(c) Submits an application prepared in another person's name to a credit reporting bureau or other person to determine whether the application was prepared in violation of subsection (1) or any other law or regulation.

(d) Receives or possesses an application prepared in another person's name without prior actual knowledge that the application was prepared in violation of subsection (1).

(e) Receives or possesses an instrument or device obtained as a result of a violation of subsection (1) without prior actual knowledge that the instrument or device was obtained as a result of a violation of subsection (1).

(4) As used in this section, "financial institution" means any of the following:

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(a) A regulated lender as defined in section 2 of the credit reform act, 1995 PA 162, MCL 445.1852.

(b) A person licensed under the Michigan BIDCO act, 1986 PA 89, MCL 487.1101 to 487.2001.

(c) A person licensed or registered under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

(d) A person licensed or registered under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81.

(e) A person subject to the retail installment sales act, 1966 PA 224, MCL 445.851 to 445.873.

(f) A person subject to the motor vehicle sales finance act, 1950 PA 27, MCL 492.101 to 492.141.

(g) A person chartered or regulated by the office of the comptroller of the currency, the federal deposit insurance corporation, the federal reserve, or the office of thrift management.

History: Add. 1999, Act 164, Eff. Feb. 3, 2000.

750.219f Forwarding loan or accessing loan proceeds in violation of chapter; violation as felony; penalty; exception; "financial institution" defined.

Sec. 219f. (1) A person shall not receive with the intent to forward, possess with the intent to forward, or forward an application for a loan or other extension of credit on behalf of a person to another person knowing or having reason to know the application has been prepared or is being submitted in violation of this chapter.

(2) A person shall not receive with the intent to forward, possess with the intent to forward, or forward to another person any instrument or device for accessing the proceeds of a loan or other extension of credit knowing or having reason to know the instrument or device was obtained as a result of a violation of this chapter.

(3) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $100,000.00, or both.

(4) Subsections (1) and (2) do not apply to a financial institution or an affiliate, licensee, or franchisee of a financial institution or to a director, officer, or employee of a financial institution or an affiliate, licensee, or franchisee of a financial institution who does any of the following:

(a) Receives with the intent to forward, possesses with the intent to forward, or forwards an application in another person's name without prior actual knowledge that the application was prepared in violation of this chapter.

(b) Forwards an application prepared in another person's name to a federal, state, or local law enforcement agency or regulatory agency.

(c) Forwards an application prepared in another person's name to a credit reporting bureau or other person to determine whether the application was prepared in violation of subsection (1) or any other law or regulation.

(d) Receives with intent to forward, possesses with intent to forward, or forwards an instrument or device without prior actual knowledge that the instrument or device was obtained as a result of a violation of this chapter.

(5) As used in this section, "financial institution" means any of the following:

(a) A regulated lender as defined in section 2 of the credit reform act, 1995 PA 162, MCL 445.1852.

(b) A person licensed under the Michigan BIDCO act, 1986 PA 89, MCL 487.1101 to 487.2001.

(c) A person licensed or registered under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

(d) A person licensed or registered under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81.

(e) A person subject to the retail installment sales act, 1966 PA 224, MCL 445.851 to 445.873.

(f) A person subject to the motor vehicle sales finance act, 1950 PA 27, MCL 492.101 to 492.141.

(g) A person chartered or regulated by the office of the comptroller of the currency, the federal deposit insurance corporation, the federal reserve, or the office of thrift management.

History: Add. 1999, Act 166, Eff. Feb. 3, 2000.

750.220 Property valuation or indebtedness; false statements.

Sec. 220. Any person who willfully and knowingly makes any false statement in writing of his or her property valuation, real or personal, or both, or of his or her indebtedness, for the purpose of obtaining credit from any person, company, co-partnership, association, or corporation, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.220;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 85 of 1909, being CL 1915, § 15343; and CL 1929, § 16993.

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750.221 Blind or defective; false statements representing oneself.

Sec. 221. Falsely representing self as blind, etc.—Any person who shall falsely represent himself or herself as blind, deaf, dumb, crippled or physically defective for the purpose of obtaining money or any other thing of value, and any person thus falsely representing himself or herself as blind, deaf, dumb, crippled or otherwise physically defective, and securing aid or assistance on account of such representation, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.221.

Former law: See section 1 of Act 135 of 1917, being CL 1929, § 17102.

CHAPTER XXXVII
FIREARMS

750.222 Definitions.

Sec. 222. As used in this chapter:

(a) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(b) "Barrel length" means the internal length of a firearm as measured from the face of the closed breech of the firearm when it is unloaded, to the forward face of the end of the barrel.

(c) "Controlled substance" means a controlled substance or controlled substance analogue as those terms are defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(d) "Firearm" means a weapon from which a dangerous projectile may be propelled by an explosive, or by gas or air. Firearm does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling by a spring, or by gas or air, BB's not exceeding .177 caliber.

(e) "Pistol" means a loaded or unloaded firearm that is 30 inches or less in length, or a loaded or unloaded firearm that by its construction and appearance conceals itself as a firearm.

(f) "Purchaser" means a person who receives a pistol from another person by purchase, gift, or loan.

(g) "Seller" means a person who sells, furnishes, loans, or gives a pistol to another person.

(h) "Shotgun" means a firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single function of the trigger.

(i) "Short-barreled shotgun" means a shotgun having 1 or more barrels less than 18 inches in length or a weapon made from a shotgun, whether by alteration, modification, or otherwise, if the weapon as modified has an overall length of less than 26 inches.

(j) "Rifle" means a firearm designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(k) "Short-barreled rifle" means a rifle having 1 or more barrels less than 16 inches in length or a weapon made from a rifle, whether by alteration, modification, or otherwise, if the weapon as modified has an overall length of less than 26 inches.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.222;—Am. 1964, Act 215, Eff. Aug. 28, 1964;—Am. 1978, Act 564, Imd. Eff. Dec. 29, 1978;—Am. 1992, Act 217, Imd. Eff. Oct. 13, 1992;—Am. 2001, Act 135, Eff. Feb. 1, 2002.

750.222a "Double-edged, nonfolding stabbing instrument" defined.

Sec. 222a. (1) As used in this chapter, "doubled-edged, nonfolding stabbing instrument" does not include a knife, tool, implement, arrowhead, or artifact manufactured from stone by means of conchoidal fracturing.

(2) Subsection (1) does not apply to an item being transported in a vehicle, unless the item is in a container and inaccessible to the driver.

History: Add. 2000, Act 343, Imd. Eff. Dec. 27, 2000.

750.223 Selling firearms and ammunition; violations; penalties; "licensed dealer" defined.

Sec. 223. (1) A person who knowingly sells a pistol without complying with section 2 of Act No. 372 of the Public Acts of 1927, as amended, being section 28.422 of the Michigan Compiled Laws, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $100.00, or both.

(2) A person who knowingly sells a firearm more than 30 inches in length to a person under 18 years of age is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $500.00, or both. A second or subsequent violation of this subsection is a felony punishable by

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imprisonment for not more than 4 years, or a fine of not more than $2,000.00, or both. It is an affirmative defense to a prosecution under this subsection that the person who sold the firearm asked to see and was shown a driver's license or identification card issued by a state that identified the purchaser as being 18 years of age or older.

(3) A seller shall not sell a firearm or ammunition to a person if the seller knows that either of the following circumstances exists:

(a) The person is under indictment for a felony. As used in this subdivision, "felony" means a violation of a law of this state, or of another state, or of the United States that is punishable by imprisonment for 4 years or more.

(b) The person is prohibited under section 224f from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm.

(4) A person who violates subsection (3) is guilty of a felony, punishable by imprisonment for not more than 10 years, or by a fine of not more than $5,000.00, or both.

(5) As used in this section, "licensed dealer" means a person licensed under section 923 of chapter 44 of title 18 of the United States Code who regularly buys and sells firearms as a commercial activity with the principal objective of livelihood and profit.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.223;—Am. 1969, Act 210, Eff. Mar. 20, 1970;—Am. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1992, Act 217, Imd. Eff. Oct. 13, 1992;—Am. 1992, Act 221, Eff. Mar. 31, 1993.

750.224 Weapons; manufacture, sale, or possession as felony; exceptions; "muffler" or "silencer" defined.

Sec. 224. (1) A person shall not manufacture, sell, offer for sale, or possess any of the following:

(a) A machine gun or firearm that shoots or is designed to shoot automatically more than 1 shot without manual reloading, by a single function of the trigger.

(b) A muffler or silencer.

(c) A bomb or bombshell.

(d) A blackjack, slungshot, billy, metallic knuckles, sand club, sand bag, or bludgeon.

(e) A device, weapon, cartridge, container, or contrivance designed to render a person temporarily or permanently disabled by the ejection, release, or emission of a gas or other substance.

(2) A person who violates subsection (1) 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.

(3) Subsection (1) does not apply to any of the following:

(a) A self-defense spray device as defined in section 224d.

(b) A person manufacturing firearms, explosives, or munitions of war by virtue of a contract with a department of the government of the United States.

(c) A person licensed by the secretary of the treasury of the United States or the secretary's delegate to manufacture, sell, or possess a machine gun, or a device, weapon, cartridge, container, or contrivance described in subsection (1).

(4) As used in this chapter, "muffler" or "silencer" means 1 or more of the following:

(a) A device for muffling, silencing, or deadening the report of a firearm.

(b) A combination of parts, designed or redesigned, and intended for use in assembling or fabricating a muffler or silencer.

(c) A part, designed or redesigned, and intended only for use in assembling or fabricating a muffler or silencer.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.224;—Am. 1959, Act 175, Eff. Mar. 19, 1960;—Am. 1978, Act 564, Imd. Eff. Dec. 29, 1978;—Am. 1980, Act 346, Eff. Mar. 31, 1981;—Am. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1991, Act 33, Imd. Eff. June 10, 1991.

Constitutionality: The Michigan supreme court held that the statute was not unconstitutionally vague as applied to the defendant in People v. Lynch, 410 Mich. 343, 301 N.W.2d 796 (1981).

Former law: See section 3 of Act 372 of 1927, being CL 1929, § 16751; and Act 206 of 1929.

750.224a Portable device or weapon directing electrical current, impulse, wave, or beam; sale or possession prohibited; exceptions; violation; penalty; definitions.

Sec. 224a. (1) Except as otherwise provided in this section, a person shall not sell, offer for sale, or possess in this state a portable device or weapon from which an electrical current, impulse, wave, or beam may be directed, which current, impulse, wave, or beam is designed to incapacitate temporarily, injure, or kill.

(2) This section does not prohibit any of the following:

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(a) The possession and reasonable use of a device that uses electro-muscular disruption technology by a peace officer, an employee of the department of corrections authorized in writing by the director of the department of corrections, a local corrections officer authorized in writing by the county sheriff, a probation officer, a court officer, a bail agent authorized under section 167b, a licensed private investigator, or an aircraft pilot or aircraft crew member, who has been trained in the use, effects, and risks of the device, while performing his or her official duties.

(b) Possession solely for the purpose of delivering a device described in subsection (1) to any governmental agency or to a laboratory for testing, with the prior written approval of the governmental agency or law enforcement agency and under conditions determined to be appropriate by that agency.

(3) A manufacturer, authorized importer, or authorized dealer may demonstrate, offer for sale, hold for sale, sell, give, lend, or deliver a device that uses electro-muscular disruption technology to a person authorized to possess a device that uses electro-muscular disruption technology and may possess a device that uses electro-muscular disruption technology for any of those purposes.

(4) A person who violates this section 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.

(5) As used in this section:

(a) "A device that uses electro-muscular disruption technology" means a device to which all of the following apply:

(*i*) The device is capable of creating an electro-muscular disruption and is used or intended to be used as a defensive device capable of temporarily incapacitating or immobilizing a person by the direction or emission of conducted energy.

(*ii*) The device contains an identification and tracking system that, when the device is initially used, dispenses coded material traceable to the purchaser through records kept by the manufacturer.

(*iii*) The manufacturer of the device has a policy of providing the identification and tracking information described in subparagraph (*ii*) to a police agency upon written request by that agency.

(b) "Local corrections officer" means that term as defined in section 2 of the local corrections officers training act, 2003 PA 125, MCL 791.532.

(c) "Peace officer" means any of the following:

(*i*) A police officer or public safety officer of this state or a political subdivision of this state, including motor carrier officers appointed under section 6d of 1935 PA 59, MCL 28.6d, and security personnel employed by the state under section 6c of 1935 PA 59, MCL 28.6c.

(*ii*) A sheriff or a sheriff's deputy.

(*iii*) A police officer or public safety officer of a junior college, college, or university who is authorized by the governing board of that junior college, college, or university to enforce state law and the rules and ordinances of that junior college, college, or university.

(*iv*) A township constable.

(*v*) A marshal of a city, village, or township.

(*vi*) A conservation officer of the department of natural resources or the department of environmental quality.

(*vii*) A law enforcement officer of another state or of a political subdivision of another state or a junior college, college, or university in another state, substantially corresponding to a law enforcement officer described in subparagraphs (*i*) to (*vi*).

(*viii*) A federal law enforcement officer.

History: Add. 1976, Act 106, Eff. July 1, 1976;—Am. 2002, Act 709, Imd. Eff. Dec. 30, 2002;—Am. 2004, Act 338, Imd. Eff. Sept. 23, 2004.

750.224b Short-barreled shotgun or rifle; manufacture, sale, or possession as felony; penalty; exceptions; applicability of § 776.20.

Sec. 224b. (1) A person shall not manufacture, sell, offer for sale, or possess a short-barreled shotgun or a short-barreled rifle.

(2) A person who violates this section 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.

(3) The provisions of this section shall not apply to the sale, offering for sale or possession of a short-barreled rifle or a short-barreled shotgun which the secretary of the treasury of the United States of America, or his delegate, pursuant to U.S.C. title 26, section 5801 through 5872, or U.S.C. title 18, sections 921 through 928, has found to be a curio, relic, antique, museum piece or collector's item not likely to be used as a weapon, but only if the person selling, offering for sale or possessing the firearm has also fully complied with the provisions of sections 2 and 9 of Act No. 372 of the Public Acts of 1927, as amended, being sections

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28.422 and 28.429 of the Michigan Compiled Laws.

The provisions of section 20 of chapter 16 of Act No. 175 of the Public Acts of 1927, as added by Act No. 299 of the Public Acts of 1968, being section 776.20 of the Michigan Compiled Laws, are applicable to this subsection.

History: Add. 1978, Act 564, Imd. Eff. Dec. 29, 1978.

750.224c Armor piercing ammunition; manufacture, distribution, sale, or use prohibited; exceptions; violation as felony; penalty; definitions; exemption of projectile or projectile core; rule.

Sec. 224c. (1) Except as provided in subsection (2), a person shall not manufacture, distribute, sell, or use armor piercing ammunition in this state. A person who willfully violates this section is guilty of a felony, punishable by imprisonment for not more than 4 years, or by a fine of not more than $2,000.00, or both.

(2) This section does not apply to either of the following:

(a) A person who manufactures, distributes, sells, or uses armor piercing ammunition in this state, if that manufacture, distribution, sale, or use is not in violation of chapter 44 of title 18 of the United States Code.

(b) A licensed dealer who sells or distributes armor piercing ammunition in violation of this section if the licensed dealer is subject to license revocation under chapter 44 of title 18 of the United States Code for that sale or distribution.

(3) As used in this section:

(a) "Armor piercing ammunition" means a projectile or projectile core which may be used in a pistol and which is constructed entirely, excluding the presence of traces of other substances, of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or a combination of tungsten alloys, steel, iron, brass, bronze, or beryllium copper. Armor piercing ammunition does not include any of the following:

(*i*) Shotgun shot that is required by federal law or by a law of this state to be used for hunting purposes.

(*ii*) A frangible projectile designed for target shooting.

(*iii*) A projectile that the director of the department of state police finds is primarily intended to be used for sporting purposes.

(*iv*) A projectile or projectile core that the director of the department of state police finds is intended to be used for industrial purposes.

(b) "Licensed dealer" means a person licensed under chapter 44 of title 18 of the United States Code to deal in firearms or ammunition.

(4) The director of the department of state police shall exempt a projectile or projectile core under subsection (3)(a)(*iii*) or (*iv*) if that projectile or projectile core is exempted under chapter 44 of title 18 of the United States Code. The director of state police shall exempt a projectile or projectile core under subsection (3)(a)(*iii*) or (*iv*) only by a rule promulgated in compliance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: Add. 1990, Act 318, Eff. Mar. 28, 1991.

750.224d Self-defense spray device.

Sec. 224d. (1) As used in this section and section 224, "self-defense spray device" means a device to which all of the following apply:

(a) The device is capable of carrying, and ejects, releases, or emits 1 of the following:

(*i*) Not more than 35 grams of any combination of orthochlorobenzalmalononitrile and inert ingredients.

(*ii*) A solution containing not more than 2% oleoresin capsicum.

(b) The device does not eject, release, or emit any gas or substance that will temporarily or permanently disable, incapacitate, injure, or harm a person with whom the gas or substance comes in contact, other than the substance described in subdivision (a)(*i*) or (*ii*).

(2) Except as otherwise provided in this section, a person who uses a self-defense spray device to eject, release, or emit orthochlorobenzalmalononitrile or oleoresin capsicum at another person is guilty of a misdemeanor, punishable by imprisonment for not more than 2 years, or a fine of not more than $2,000.00, or both.

(3) If a person uses a self-defense spray device during the commission of a crime to eject, release, or emit orthochlorobenzalmalononitrile or oleoresin capsicum or threatens to use a self-defense spray device during the commission of a crime to temporarily or permanently disable another person, the judge who imposes sentence upon a conviction for that crime shall consider the defendant's use or threatened use of the self-defense spray device as a reason for enhancing the sentence.

(4) A person shall not sell a self-defense spray device to a minor. A person who violates this subsection is guilty of a misdemeanor.

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(5) Subsection (2) does not prohibit either of the following:

(a) The reasonable use of a self-defense spray device by a law enforcement officer in the performance of the law enforcement officer's duty.

(b) The reasonable use of a self-defense spray device by a person in the protection of a person or property under circumstances which would justify the person's use of physical force.

History: Add. 1980, Act 346, Eff. Mar. 31, 1981;—Am. 1991, Act 33, Imd. Eff. June 10, 1991;—Am. 1992, Act 4, Imd. Eff. Feb. 21, 1992.

750.224e Conversion of semiautomatic firearm to fully automatic firearm; prohibited acts; penalty; applicability; "fully automatic firearm", "licensed collector", and "semiautomatic firearm" defined.

Sec. 224e. (1) A person shall not knowingly do any of the following:

(a) Manufacture, sell, distribute, or possess or attempt to manufacture, sell, distribute, or possess a device that is designed or intended to be used to convert a semiautomatic firearm into a fully automatic firearm.

(b) Demonstrate to another person or attempt to demonstrate to another person how to manufacture or install a device to convert a semiautomatic firearm into a fully automatic firearm.

(2) A person who violates subsection (1) 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.

(3) This section does not apply to any of the following:

(a) A police agency of this state, or of a local unit of government of this state, or of the United States.

(b) An employee of an agency described in subdivision (a), if the manufacture, sale, distribution, or possession or attempted manufacture, sale, distribution, or possession or demonstration or attempted demonstration is in the course of his or her official duties as an employee of that agency.

(c) The armed forces.

(d) A member or employee of the armed forces, if the manufacture, sale, distribution, or possession or attempted manufacture, sale, distribution, or possession or demonstration or attempted demonstration is in the course of his or her official duties as a member or employee of the armed forces.

(e) A licensed collector who possesses a device that is designed or intended to be used to convert a semiautomatic firearm into a fully automatic firearm that was lawfully owned by that licensed collector before the effective date of the amendatory act that added this section. This subdivision does not permit a licensed collector who lawfully owned a device that is designed or intended to be used to convert a semiautomatic firearm into a fully automatic firearm before the effective date of the amendatory act that added this section to sell or distribute or attempt to sell or distribute that device to another person after the effective date of the amendatory act that added this section.

(4) As used in this section:

(a) "Fully automatic firearm" means a firearm employing gas pressure or force of recoil to mechanically eject an empty cartridge from the firearm after a shot, and to load the next cartridge from the magazine, without renewed pressure on the trigger for each successive shot.

(b) "Licensed collector" means a person who is licensed under chapter 44 of title 18 of the United States code to acquire, hold, or dispose of firearms as curios or relics.

(c) "Semiautomatic firearm" means a firearm employing gas pressure or force of recoil to mechanically eject an empty cartridge from the firearm after a shot, and to load the next cartridge from the magazine, but requiring renewed pressure on the trigger for each successive shot.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991.

750.224f Possession of firearm by person convicted of felony; circumstances; penalty; applicability of section to expunged or set aside conviction; "felony" and "specified felony" defined.

Sec. 224f. (1) Except as provided in subsection (2), a person convicted of a felony shall not possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm in this state until the expiration of 3 years after all of the following circumstances exist:

(a) The person has paid all fines imposed for the violation.

(b) The person has served all terms of imprisonment imposed for the violation.

(c) The person has successfully completed all conditions of probation or parole imposed for the violation.

(2) A person convicted of a specified felony shall not possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm in this state until all of the following circumstances exist:

(a) The expiration of 5 years after all of the following circumstances exist:

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(*i*) The person has paid all fines imposed for the violation.

(*ii*) The person has served all terms of imprisonment imposed for the violation.

(*iii*) The person has successfully completed all conditions of probation or parole imposed for the violation.

(b) The person's right to possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm has been restored pursuant to section 4 of Act No. 372 of the Public Acts of 1927, being section 28.424 of the Michigan Compiled Laws.

(3) A person who possesses, uses, transports, sells, purchases, carries, ships, receives, or distributes a firearm in violation of this section 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.

(4) This section does not apply to a conviction that has been expunged or set aside, or for which the person has been pardoned, unless the expunction, order, or pardon expressly provides that the person shall not possess a firearm.

(5) As used in this section, "felony" means a violation of a law of this state, or of another state, or of the United States that is punishable by imprisonment for 4 years or more, or an attempt to violate such a law.

(6) As used in subsection (2), "specified felony" means a felony in which 1 or more of the following circumstances exist:

(*i*) An element of that felony is the use, attempted use, or threatened use of physical force against the person or property of another, or that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(*ii*) An element of that felony is the unlawful manufacture, possession, importation, exportation, distribution, or dispensing of a controlled substance.

(*iii*) An element of that felony is the unlawful possession or distribution of a firearm.

(*iv*) An element of that felony is the unlawful use of an explosive.

(*v*) The felony is burglary of an occupied dwelling, or breaking and entering an occupied dwelling, or arson.

History: Add. 1992, Act 217, Imd. Eff. Oct. 13, 1992.

750.225 Repealed. 1993, Act 254, Imd. Eff. Nov. 29, 1993.

Compiler's note: The repealed section pertained to printed matter selling or delivering firearms.

750.226 Firearm or dangerous weapon; carrying with unlawful intent.

Sec. 226. Carrying firearm or dangerous weapon with unlawful intent—Any person who, with intent to use the same unlawfully against the person of another, goes armed with a pistol or other firearm or dagger, dirk, razor, stiletto, or knife having a blade over 3 inches in length, or any other dangerous or deadly weapon or instrument, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years or by a fine of not more than 2,500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.226.

Former law: See section 4 of Act 372 of 1927, being CL 1929, § 16752.

750.226a Pocket knife opened by mechanical device; unlawful sale or possession; persons exempted.

Sec. 226a. Any person who shall sell or offer to sell, or any person who shall have in his possession any knife having the appearance of a pocket knife, the blade or blades of which can be opened by the flick of a button, pressure on a handle or other mechanical contrivance shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not to exceed 1 year or by a fine of not to exceed $300.00, or both.

The provisions of this section shall not apply to any one-armed person carrying a knife on his person in connection with his living requirements.

History: Add. 1952, Act 233, Eff. Sept. 18, 1952.

750.227 Concealed weapons; carrying; penalty.

Sec. 227. (1) A person shall not carry a dagger, dirk, stiletto, a double-edged nonfolding stabbing instrument of any length, or any other dangerous weapon, except a hunting knife adapted and carried as such, concealed on or about his or her person, or whether concealed or otherwise in any vehicle operated or occupied by the person, except in his or her dwelling house, place of business or on other land possessed by the person.

(2) A person shall not carry a pistol concealed on or about his or her person, or, whether concealed or otherwise, in a vehicle operated or occupied by the person, except in his or her dwelling house, place of business, or on other land possessed by the person, without a license to carry the pistol as provided by law and

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if licensed, shall not carry the pistol in a place or manner inconsistent with any restrictions upon such license.

(3) A person who violates this section is guilty of a felony, punishable by imprisonment for not more than 5 years, or by a fine of not more than $2,500.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.227;—Am. 1973, Act 206, Eff. Mar. 29, 1974;—Am. 1986, Act 8, Eff. July 1, 1986.

Constitutionality: The double jeopardy protection against multiple punishment for the same offense is a restriction on a court's ability to impose punishment in excess of that intended by the Legislature, not a limit on the Legislature's power to define crime and fix punishment. People v. Sturgis, 427 Mich. 392, 397 N.W.2d 783 (1986).

Former law: See section 5 of Act 372 of 1927, being CL 1929, § 16753.

750.227a Pistols; unlawful possession by licensee.

Sec. 227a. Any person licensed in accordance with law to carry a pistol because he is engaged in the business of protecting the person or property of another, except peace officers of the United States, the state or any subdivision of the state railroad policemen appointed and commissioned under the provisions of Act No. 114 of the Public Acts of 1941, being sections 470.51 to 470.61 of the Compiled Laws of 1948 or those in the military service of the United States, who shall have a pistol in his possession while not actually engaged in the business of protecting the person or property of another, except in his dwelling house or on other land possessed by him, is guilty of a felony. This section shall not be construed to prohibit such person from carrying an unloaded pistol to or from his place of employment by the most direct route.

History: Add. 1966, Act 100, Eff. Mar. 10, 1967;—Am. 1967, Act 49, Eff. Nov. 2, 1967.

750.227b Carrying or possessing firearm when committing or attempting to commit felony; "law enforcement officer" defined.

Sec. 227b. (1) A person who carries or has in his or her possession a firearm when he or she commits or attempts to commit a felony, except a violation of section 223, section 227, 227a or 230, is guilty of a felony, and shall be imprisoned for 2 years. Upon a second conviction under this section, the person shall be imprisoned for 5 years. Upon a third or subsequent conviction under this subsection, the person shall be imprisoned for 10 years.

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

(3) A term of imprisonment imposed under this section shall not be suspended. The person subject to the sentence mandated by this section is not eligible for parole or probation during the mandatory term imposed pursuant to subsection (1).

(4) This section does not apply to a law enforcement officer who is authorized to carry a firearm while in the official performance of his or her duties, and who is in the performance of those duties. As used in this subsection, "law enforcement officer" means a person who is regularly employed as a member of a duly authorized police agency or other organization of the United States, this state, or a city, county, township, or village of this state, and who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of this state.

History: Add. 1976, Act 6, Eff. Jan. 1, 1977;—Am. 1990, Act 321, Eff. Mar. 28, 1991.

Constitutionality: The double jeopardy protection against multiple punishment for the same offense is a restriction on a court's ability to impose punishment in excess of that intended by the Legislature, not a limit on the Legislature's power to define crime and fix punishment. People v. Sturgis, 427 Mich. 392, 397 N.W.2d 783 (1986).

750.227c Transporting or possessing loaded firearm in or upon vehicle; violation as misdemeanor; penalty; applicability to person violating § 312.10(1)(g).

Sec. 227c. (1) Except as otherwise permitted by law, a person shall not transport or possess in or upon a sailboat or a motor vehicle, aircraft, motorboat, or any other vehicle propelled by mechanical means, a firearm, other than a pistol, which is loaded.

(2) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 2 years, or a fine of not more than $2,500.00, or both.

(3) This section does not apply to a person who violates section 10(1)(g) of chapter II of Act No. 286 of the Public Acts of 1929, as amended, being section 312.10 of the Michigan Compiled Laws.

History: Add. 1981, Act 103, Eff. Mar. 31, 1982.

750.227d Transporting or possessing firearm in or upon motor vehicle or self-propelled vehicle designed for land travel; conditions; violation as misdemeanor; penalty.

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Sec. 227d. (1) Except as otherwise permitted by law, a person shall not transport or possess in or upon a motor vehicle or any self-propelled vehicle designed for land travel a firearm, other than a pistol, unless the firearm is unloaded and is 1 or more of the following:

(a) Taken down.

(b) Enclosed in a case.

(c) Carried in the trunk of the vehicle.

(d) Inaccessible from the interior of the vehicle.

(2) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $100.00, or both.

History: Add. 1981, Act 103, Eff. Mar. 31, 1982.

750.227f Committing or attempting to commit crime involving violent act or threat of violent act against another person while wearing body armor as felony; penalty; consecutive term of imprisonment; exception; definitions.

Sec. 227f. (1) Except as provided in subsection (2), an individual who commits or attempts to commit a crime that involves a violent act or a threat of a violent act against another person while wearing body armor 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. A term of imprisonment imposed for violating this section may be served consecutively to any term of imprisonment imposed for the crime committed or attempted.

(2) Subsection (1) does not apply to either of the following:

(a) A peace officer of this state or another state, or of a local unit of government of this state or another state, or of the United States, performing his or her duties as a peace officer while on or off a scheduled work shift as a peace officer.

(b) A security officer performing his or her duties as a security officer while on a scheduled work shift as a security officer.

(3) As used in this section:

(a) "Body armor" means clothing or a device designed or intended to protect an individual's body or a portion of an individual's body from injury caused by a firearm.

(b) "Security officer" means an individual lawfully employed to physically protect another individual or to physically protect the property of another person.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1992, Act 218, Imd. Eff. Oct. 13, 1992;—Am. 1996, Act 163, Imd. Eff. Apr. 11, 1996;—Am. 2000, Act 226, Eff. Oct. 1, 2000.

750.227g Body armor; purchase, ownership, possession, or use by convicted felon; prohibition; issuance of written permission; violation as felony; definitions.

Sec. 227g. (1) Except as otherwise provided in this section, a person who has been convicted of a violent felony shall not purchase, own, possess, or use body armor.

(2) A person who has been convicted of a violent felony whose employment, livelihood, or safety is dependent on his or her ability to purchase, own, possess, or use body armor may petition the chief of police of the local unit of government in which he or she resides or, if he or she does not reside in a local unit of government that has a police department, the county sheriff, for written permission to purchase, own, possess, or use body armor under this section.

(3) The chief of police of a local unit of government or the county sheriff may grant a person who properly petitions that chief of police or county sheriff under subsection (2) written permission to purchase, own, possess, or use body armor as provided in this section if the chief of police or county sheriff determines that both of the following circumstances exist:

(a) The petitioner is likely to use body armor in a safe and lawful manner.

(b) The petitioner has reasonable need for the protection provided by body armor.

(4) In making the determination required under subsection (3), the chief of police or county sheriff shall consider all of the following:

(a) The petitioner's continued employment.

(b) The interests of justice.

(c) Other circumstances justifying issuance of written permission to purchase, own, possess, or use body armor.

(5) The chief of police or county sheriff may restrict written permission issued to a petitioner under this section in any manner determined appropriate by that chief of police or county sheriff. If permission is restricted, the chief of police or county sheriff shall state the restrictions in the permission document.

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(6) It is the intent of the legislature that chiefs of police and county sheriffs exercise broad discretion in determining whether to issue written permission to purchase, own, possess, or use body armor under this section. However, nothing in this section requires a chief of police or county sheriff to issue written permission to any particular petitioner. The issuance of written permission to purchase, own, possess, or use body armor under this section does not relieve any person or entity from criminal liability that might otherwise be imposed.

(7) A person who receives written permission from a chief of police or county sheriff to purchase, own, possess, or use body armor shall have that written permission in his or her possession when he or she is purchasing, owning, possessing, or using body armor.

(8) A law enforcement agency may issue body armor to a person who is in custody or who is a witness to a crime for his or her own protection without a petition being previously filed under subsection (2). If the law enforcement agency issues body armor to the person under this subsection, the law enforcement agency shall document the reasons for issuing body armor and retain a copy of that document as an official record. The law enforcement agency shall also issue written permission to the person to possess and use body armor under this section.

(9) A person who violates this section is guilty of a crime as follows:

(a) For a violation of subsection (1), 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.

(b) For a violation of subsection (7), the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.

(10) As used in this section:

(a) "Body armor" means that term as defined in section 227f.

(b) "Violent felony" means that term as defined in section 36 of 1953 PA 232, MCL 791.236.

History: Add. 2000, Act 224, Eff. Oct. 1, 2000.

750.228 Failure to have pistol inspected; applicability; penalty.

Sec. 228. (1) Except as provided in subsection (2), a person who fails to have his or her pistol inspected as required under section 9 of Act No. 372 of the Public Acts of 1927, being section 28.429 of the Michigan Compiled Laws, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not more than $100.00, or both.

(2) Subsection (1) does not apply to a person who obtained a pistol in violation of section 9 of Act No. 372 of the Public Acts of 1927, before the effective date of the 1990 amendatory act that added this subsection, who has not been convicted of that violation, and who has his or her pistol inspected as required under section 9 of Act No. 372 of the Public Acts of 1927 within 90 days after the effective date of the 1990 amendatory act that added this subsection.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.228;—Am. 1990, Act 321, Eff. Mar. 28, 1991.

Compiler's note: For provisions of section 9, referred to in this section, see § 28.429.

750.229 Pistols accepted in pawn, by second-hand dealer or junk dealer.

Sec. 229. Any pawnbroker who shall accept a pistol in pawn, or any second-hand or junk dealer, as defined in Act No. 350 of the Public Acts of 1917, who shall accept a pistol and offer or display the same for resale, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1945, Act 236, Eff. Sept. 6, 1945;—CL 1948, 750.229.

Compiler's note: For provisions of Act 350 of 1917, referred to in this section, see § 445.401 et seq.

Former law: See section 10 of Act 372 of 1927, being CL 1929, § 16759.

750.230 Firearms; altering, removing, or obliterating marks of identity; presumption.

Sec. 230. A person who shall wilfully alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identity of a pistol or other firearm, shall be guilty of a felony, punishable by imprisonment for not more than 2 years or fine of not more than $1,000.00. Possession of a firearm upon which the number shall have been altered, removed, or obliterated, other than an antique firearm as defined by section 231a(2)(a) or (b), shall be presumptive evidence that the possessor has altered, removed, or obliterated the same.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.230;—Am. 1976, Act 32, Imd. Eff. Mar. 5, 1976.

Constitutionality: The statutory presumption contained in this section is unconstitutional. People v. Moore, 402 Mich. 538, 266 N.W.2d 145 (1978).

Former law: See section 11 of Act 372 of 1927, being CL 1929, § 16760.

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750.231 Sections 750.224, 750.224a, 750.224b, 750.226a, 750.227, 750.227c, and 750.227d inapplicable to certain persons and organizations.

Sec. 231. (1) Except as provided in subsection (2), sections 224, 224a, 224b, 226a, 227, 227c, and 227d do not apply to any of the following:

(a) A peace officer of an authorized police agency of the United States, of this state, or of a political subdivision of this state, who is regularly employed and paid by the United States, this state, or a political subdivision of this state.

(b) A person who is regularly employed by the state department of corrections and who is authorized in writing by the director of the department of corrections to carry a concealed weapon while in the official performance of his or her duties or while going to or returning from those duties.

(c) A person employed by a private vendor that operates a youth correctional facility authorized under section 20g of 1953 PA 232, MCL 791.220g, who meets the same criteria established by the director of the state department of corrections for departmental employees described in subdivision (b) and who is authorized in writing by the director of the department of corrections to carry a concealed weapon while in the official performance of his or her duties or while going to or returning from those duties.

(d) A member of the United States army, air force, navy, or marine corps or the United States coast guard while carrying weapons in the line of or incidental to duty.

(e) An organization authorized by law to purchase or receive weapons from the United States or from this state.

(f) A member of the national guard, armed forces reserve, the United States coast guard reserve, or any other authorized military organization while on duty or drill, or in going to or returning from a place of assembly or practice, while carrying weapons used for a purpose of the national guard, armed forces reserve, United States coast guard reserve, or other duly authorized military organization.

(2) As applied to section 224a(1) only, subsection (1) is not applicable to an individual included under subsection (1)(a), (b), or (c) unless he or she has been trained on the use, effects, and risks of using a portable device or weapon described in section 224a(1).

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.231;—Am. 1958, Act 107, Eff. Sept. 13, 1958;—Am. 1964, Act 215, Eff. Aug. 28, 1964;—Am. 1981, Act 103, Eff. Mar. 31, 1982;—Am. 1998, Act 510, Imd. Eff. Jan. 8, 1999;—Am. 2002, Act 536, Imd. Eff. July 26, 2002.

750.231a Exceptions to § 750.227(2); definitions.

Sec. 231a. (1) Subsection (2) of section 227 does not apply to any of the following:

(a) To a person holding a valid license to carry a pistol concealed upon his or her person issued by his or her state of residence except where the pistol is carried in nonconformance with a restriction appearing on the license.

(b) To the regular and ordinary transportation of pistols as merchandise by an authorized agent of a person licensed to manufacture firearms.

(c) To a person carrying an antique firearm as defined in subsection (2), completely unloaded in a closed case or container designed for the storage of firearms in the trunk of a vehicle.

(d) To a person while transporting a pistol for a lawful purpose that is licensed by the owner or occupant of the motor vehicle in compliance with section 2 of 1927 PA 372, MCL 28.422, and the pistol is unloaded in a closed case designed for the storage of firearms in the trunk of the vehicle.

(e) To a person while transporting a pistol for a lawful purpose that is licensed by the owner or occupant of the motor vehicle in compliance with section 2 of 1927 PA 372, MCL 28.422, and the pistol is unloaded in a closed case designed for the storage of firearms in a vehicle that does not have a trunk and is not readily accessible to the occupants of the vehicle.

(2) As used in this section:

(a) "Antique firearm" means either of the following:

(*i*) A firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including a matchlock, flintlock, percussion cap, or similar type of ignition system or replica of such a firearm, whether actually manufactured before or after 1898.

(*ii*) A firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(b) "Lawful purpose" includes the following:

(*i*) While en route to or from a hunting or target shooting area.

(*ii*) While transporting a pistol en route to or from his or her home or place of business and place of repair.

(*iii*) While moving goods from 1 place of abode or business to another place of abode or business.

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(*iv*) While transporting a licensed pistol en route to or from a law enforcement agency for the purpose of having a safety inspection performed on the pistol as is required by section 9 of 1927 PA 372, MCL 28.429, or for the purpose of having a law enforcement official take possession of the weapon.

(*v*) While en route to or from his or her abode or place of business and a gun show or places of purchase or sale.

(*vi*) While en route to or from his or her abode to a public shooting facility or public land where discharge of firearms is permitted by law, rule, regulation, or local ordinance.

(*vii*) While en route to or from his or her abode to a private property location where the pistol is to be used as is permitted by law, rule, regulation, or local ordinance.

History: Add. 1964, Act 215, Eff. Aug. 28, 1964;—Am. 1973, Act 191, Eff. Mar. 29, 1974;—Am. 1974, Act 55, Imd. Eff. Apr. 1, 1974;—Am. 1978, Act 280, Imd. Eff. July 6, 1978;—Am. 2002, Act 82, Imd. Eff. Mar. 26, 2002.

750.231b Sale and safety inspection; persons exempt.

Sec. 231b. Sections 223 and 228 do not apply to a duly authorized police or correctional agency of the United States or of the state or any subdivision thereof, nor to the army, air force, navy or marine corps of the United States, nor to organizations authorized by law to purchase or receive weapons from the United States or from this state, nor to the national guard, armed forces reserves or other duly authorized military organizations, nor to a member of such agencies or organizations for weapons used by him for the purposes of such agencies or organizations, nor to a person holding a license to carry a pistol concealed upon his person issued by another state, nor to the regular and ordinary transportation of pistols as merchandise by an authorized agent of a person licensed to manufacture firearms.

History: Add. 1964, Act 215, Eff. Aug. 28, 1964.

750.231c "Aircraft,""approved signaling device," and "vessel" defined; sections inapplicable to approved signaling device; sale, purchase, possession, or use of approved signaling device; violation as misdemeanor; penalties.

Sec. 231c. (1) As used in this section:

(a) "Aircraft" means aircraft as defined in section 43.

(b) "Approved signaling device" means a pistol which is a signaling device approved by the United States coast guard pursuant to regulations issued under former section 4488 of the Revised Statutes of the United States, 46 U.S.C. Appx. 481, or under former section 5 of the federal boat safety act of 1971, Public Law 92-75, 46 U.S.C. 1454.

(c) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(2) Sections 223, 227, 228, 232, 232a, and 237 shall not apply to an approved signaling device.

(3) A person shall not sell an approved signaling device to a person, nor shall a person purchase an approved signaling device, unless the purchaser is 18 years of age or older and either of the following apply:

(a) The purchaser possesses and displays to the seller any of the following:

(*i*) A valid and current certificate of number issued pursuant to section 80124 of part 801 (marine safety) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.80124 of the Michigan Compiled Laws, for a vessel.

(*ii*) If a vessel is considered in compliance with the numbering requirements of this state pursuant to section 80122 of part 801 of Act No. 451 of the Public Acts of 1994, being section 324.80122 of the Michigan Compiled Laws, proof of ownership or proof of the vessel's being numbered in another state.

(*iii*) If a vessel is not required to be numbered or to display a decal under part 801 of Act No. 451 of the Public Acts of 1994, being sections 324.80101 to 324.80199 of the Michigan Compiled Laws, proof of ownership of the vessel.

(b) The purchaser is the holder of and displays to the seller a valid and effective airman's certificate of competency issued by the United States or a foreign government.

(4) A person may possess an approved signaling device only under the following circumstances:

(a) The possession occurs in the process of manufacturing, marketing, or sale of the device, including the transportation of the device as merchandise, and the device is unloaded.

(b) The device is on a vessel or on an aircraft.

(c) The device is at a person's residence.

(d) The person is en route from the place of purchase to the person's residence or the person's vessel or aircraft or between the person's residence and the person's vessel or aircraft.

(e) The device is in a vehicle other than a vessel or aircraft and all of the following apply:

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(*i*) The device is unloaded.

(*ii*) The device is enclosed in a case and either is carried in the trunk of the vehicle which has a trunk or is otherwise not readily accessible to the occupants of the vehicle.

(*iii*) Subdivision (d) applies.

(5) A person shall not use an approved signaling device unless he or she reasonably believes that its use is necessary for the safety of the person or of another person on the waters of this state or in an aircraft emergency situation.

(6) A person who sells, purchases, or possesses an approved signaling device in violation of this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $200.00, or both.

(7) A person who uses an approved signaling device in violation of this section is guilty of a misdemeanor, punishable by a fine of not more than $200.00.

History: Add. 1982, Act 185, Eff. July 1, 1982;—Am. 1996, Act 80, Imd. Eff. Feb. 27, 1996.

750.232 Purchasers of firearms; registration.

Sec. 232. Registration of purchasers of pistols, etc.—Any person engaged in any way or to any extent in the business of selling at retail, guns, pistols, other fire-arms or silencers for fire-arms who shall fail or neglect to keep a register in which shall be entered the name, age, occupation and residence (if residing in the city with the street number of such residence) of each and every purchaser of such guns, pistols, other fire-arms or silencers for fire-arms together with the number or other mark of identification, if any, on such gun, pistol, other fire-arms or silencer for fire-arms, which said register shall be open to the inspection of all peace officers at all times, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.232.

Former law: See sections 1 and 2 of Act 250 of 1913, being CL 1915, §§ 15247 and 15248; and CL 1929, §§ 16768 and 16769.

750.232a Obtaining pistol in violation of § 28.422; intentionally making material false statement on application for license to purchase pistol; using or attempting to use false identification or identification of another person to purchase firearm; penalties.

Sec. 232a. (1) Except as provided in subsection (2), a person who obtains a pistol in violation of section 2 of Act No. 372 of the Public Acts of 1927, as amended, being section 28.422 of the Michigan Compiled Laws, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both.

(2) Subsection (1) does not apply to a person who obtained a pistol in violation of section 2 of Act No. 372 of the Public Acts of 1927 before the effective date of the 1990 amendatory act that added this subsection, who has not been convicted of that violation, and who obtains a license as required under section 2 of Act No. 372 of the Public Acts of 1927 within 90 days after the effective date of the 1990 amendatory act that added this subsection.

(3) A person who intentionally makes a material false statement on an application for a license to purchase a pistol under section 2 of Act No. 372 of the Public Acts of 1927, as amended, 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.

(4) A person who uses or attempts to use false identification or the identification of another person to purchase a firearm is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both.

History: Add. 1943, Act 54, Eff. July 30, 1943;—CL 1948, 750.232a;—Am. 1990, Act 321, Eff. Mar. 28, 1991.

Compiler's note: For provisions of section 2, referred to in this section, see § 28.422.

750.233 Firearm; intentionally aiming without malice.

Sec. 233. Intentionally aiming fire-arm without malice—Any person who shall intentionally, without malice, point or aim any fire-arm at or toward any other person, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.233.

Former law: See section 1 of Act 68 of 1869, being CL 1871, § 7548; How., § 9110; CL 1897, § 11509; CL 1915, § 15232; and CL 1929, § 16776.

750.234 Firearm; discharge, intentionally aimed without malice.

Sec. 234. Discharge of fire-arm intentionally but without malice aimed at another—Any person who shall discharge, without injury to any other person, any fire-arm, while intentionally, without malice, aimed at or toward any person, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

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History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.234.

Former law: See section 2 of Act 68 of 1869, being CL 1871, § 7548; How., § 9111; CL 1897, § 11510; CL 1915, § 15233; and CL 1929, § 16777.

750.234a Intentionally discharging firearm from motor vehicle, snowmobile, or off-road vehicle in manner that endangers safety of another individual as felony; penalty; exceptions.

Sec. 234a. (1) Except as provided in subsection (2) or (3), an individual who intentionally discharges a firearm from a motor vehicle, a snowmobile, or an off-road vehicle in such a manner as to endanger the safety of another individual 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.

(2) Subsection (1) does not apply to a peace officer of this state or another state, or of a local unit of government of this state or another state, or of the United States, performing his or her duties as a peace officer while on or off a scheduled work shift as a peace officer.

(3) Subsection (1) does not apply to an individual who discharges a firearm in self-defense or the defense of another individual.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1992, Act 218, Imd. Eff. Oct. 13, 1992;—Am. 1996, Act 163, Imd. Eff. Apr. 11, 1996.

750.234b Intentionally discharging firearm at dwelling or occupied structure as felony; penalty; exceptions; "dwelling" and "occupied structure" defined.

Sec. 234b. (1) Except as provided in subsection (3) or (4), an individual who intentionally discharges a firearm at a facility that he or she knows or has reason to believe is a dwelling or an occupied structure 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.

(2) An individual who intentionally discharges a firearm in a facility that he or she knows or has reason to believe is an occupied structure in reckless disregard for the safety of any individual 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.

(3) Subsections (1) and (2) do not apply to a peace officer of this state or another state, or of a local unit of government of this state or another state, or of the United States, performing his or her duties as a peace officer.

(4) Subsections (1) and (2) do not apply to an individual who discharges a firearm in self-defense or the defense of another individual.

(5) As used in this section:

(a) "Dwelling" means a facility habitually used by 1 or more individuals as a place of abode, whether or not an individual is present in the facility.

(b) "Occupied structure" means a facility in which 1 or more individuals are present.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1992, Act 218, Imd. Eff. Oct. 13, 1992.

750.234c Intentionally discharging firearm at emergency or law enforcement vehicle as felony; penalty; "emergency or law enforcement vehicle" defined.

Sec. 234c. (1) An individual who intentionally discharges a firearm at a motor vehicle that he or she knows or has reason to believe is an emergency or law enforcement vehicle 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.

(2) As used in this section, "emergency or law enforcement vehicle" means 1 or more of the following:

(a) A motor vehicle owned or operated by a fire department of a local unit of government of this state.

(b) A motor vehicle owned or operated by a police agency of the United States, of this state, or of a local unit of government of this state.

(c) A motor vehicle owned or operated by the department of natural resources that is used for law enforcement purposes.

(d) A motor vehicle owned or operated by an entity licensed to provide emergency medical services under part 192 of article 17 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.20901 to 333.20979 of the Michigan Compiled Laws, and that is used to provide emergency medical assistance to individuals.

(e) A motor vehicle owned or operated by a volunteer employee or paid employee of an entity described in subdivisions (a) to (c) while the motor vehicle is being used to perform emergency or law enforcement duties for that entity.

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History: Add. 1990, Act 321, Eff. Mar. 28, 1991.

750.234d Possession of firearm on certain premises prohibited; applicability; violation as misdemeanor; penalty.

Sec. 234d. (1) Except as provided in subsection (2), a person shall not possess a firearm on the premises of any of the following:

(a) A depository financial institution or a subsidiary or affiliate of a depository financial institution.

(b) A church or other house of religious worship.

(c) A court.

(d) A theatre.

(e) A sports arena.

(f) A day care center.

(g) A hospital.

(h) An establishment licensed under the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being sections 436.1 to 436.58 of the Michigan Compiled Laws.

(2) This section does not apply to any of the following:

(a) A person who owns, or is employed by or contracted by, an entity described in subsection (1) if the possession of that firearm is to provide security services for that entity.

(b) A peace officer.

(c) A person licensed by this state or another state to carry a concealed weapon.

(d) A person who possesses a firearm on the premises of an entity described in subsection (1) if that possession is with the permission of the owner or an agent of the owner of that entity.

(3) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1992, Act 218, Imd. Eff. Oct. 13, 1992;—Am. 1994, Act 158, Eff. Aug. 15, 1994.

750.234e Brandishing firearm in public; applicability; violation as misdemeanor; penalty.

Sec. 234e. (1) Except as provided in subsection (2), a person shall not knowingly brandish a firearm in public.

(2) Subsection (1) does not apply to any of the following:

(a) A peace officer lawfully performing his or her duties as a peace officer.

(b) A person lawfully engaged in hunting.

(c) A person lawfully engaged in target practice.

(d) A person lawfully engaged in the sale, purchase, repair, or transfer of that firearm.

(3) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not more than $100.00, or both.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991.

750.234f Possession of firearm by person less than 18 years of age; exceptions; violation as misdemeanor; penalty.

Sec. 234f. (1) Except as provided in subsection (2), an individual less than 18 years of age shall not possess a firearm in public except under the direct supervision of an individual 18 years of age or older.

(2) Subsection (1) does not apply to an individual less than 18 years of age who possesses a firearm in accordance with part 401 (wildlife conservation) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.40101 to 324.40119 of the Michigan Compiled Laws, or part 435 (hunting and fishing licensing) of Act No. 451 of the Public Acts of 1994, being sections 324.43501 to 324.43561 of the Michigan Compiled Laws. However, an individual less than 18 years of age may possess a firearm without a hunting license while at, or going to or from, a recognized target range or trap or skeet shooting ground if, while going to or from the range or ground, the firearm is enclosed and securely fastened in a case or locked in the trunk of a motor vehicle.

(3) An individual who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $100.00, or both.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991;—Am. 1992, Act 218, Imd. Eff. Oct. 13, 1992;—Am. 1996, Act 80, Imd. Eff. Feb. 27, 1996.

750.235 Firearm; injuring, intentionally aimed without malice.

Sec. 235. Injuring by discharge of fire-arm intentionally but without malice pointed at another—Any person who shall maim or injure any other person by the discharge of any fire-arm pointed or aimed

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intentionally, without malice, at any such person shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.235.

Former law: See section 3 of Act 68 of 1869, being CL 1871, § 7549; How., § 9112; CL 1897, § 11511; CL 1915, § 15234; and CL 1929, § 16778.

750.235a Parent of minor guilty of misdemeanor; conditions; penalty; defense; definitions.

Sec. 235a. (1) The parent of a minor is guilty of a misdemeanor if all of the following apply:

(a) The parent has custody of the minor.

(b) The minor violates this chapter in a weapon free school zone.

(c) The parent knows that the minor would violate this chapter or the parent acts to further the violation.

(2) An individual convicted under subsection (1) may be punished by 1 or more of the following:

(a) A fine of not more than $2,000.00.

(b) Community service for not more than 100 hours.

(c) Probation.

(3) It is a complete defense to a prosecution under this section if the defendant promptly notifies the local law enforcement agency or the school administration that the minor is violating or will violate this chapter in a weapon free school zone.

(4) As used in this section:

(a) "Minor" means an individual less than 18 years of age.

(b) "School" means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12.

(c) "School property" means a building, playing field, or property used for school purposes to impart instruction to children or used for functions and events sponsored by a school, except a building used primarily for adult education or college extension courses.

(d) "Weapon free school zone" means school property and a vehicle used by a school to transport students to or from school property.

History: Add. 1994, Act 158, Eff. Aug. 15, 1994.

Compiler's note: Former § 750.235a, which made the reckless use of firearms a misdemeanor, was repealed by Act 45 of 1952, Eff. Sept. 18, 1952.

750.236 Spring gun, trap or device; setting.

Sec. 236. Setting spring guns, etc.—Any person who shall set any spring or other gun, or any trap or device operating by the firing or explosion of gunpowder or any other explosive, and shall leave or permit the same to be left, except in the immediate presence of some competent person, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year, or by a fine of not more than 500 dollars, and the killing of any person by the firing of a gun or device so set shall be manslaughter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.236.

Former law: See section 1 of Act 97 of 1875; being How., § 9114; CL 1897, § 11515; CL 1915, § 15250; and CL 1929, § 16782.

750.237 Liquor or controlled substance; possession or use of firearm by person under influence; violation; penalty; chemical analysis.

Sec. 237. (1) An individual shall not carry, have in possession or under control, or use in any manner or discharge a firearm under any of the following circumstances:

(a) The individual is under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.

(b) The individual has an alcohol content of 0.08 or more grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(c) Because of the consumption of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance, the individual's ability to use a firearm is visibly impaired.

(2) Except as provided in subsections (3) and (4), an individual 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 $100.00 for carrying or possessing a firearm, or both, and not more than $500.00 for using or discharging a firearm, or both.

(3) An individual who violates subsection (1) and causes a serious impairment of a body function of another individual by the discharge or use in any manner of the firearm is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than $1,000.00 or more than $5,000.00, or both. As used in this subsection, "serious impairment of a body function" includes, but is not limited to, 1 or more

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of the following:

(a) Loss of a limb or use of a limb.

(b) Loss of a hand, foot, finger, or thumb or use of a hand, foot, finger, or thumb.

(c) Loss of an eye or ear or of use of an eye or ear.

(d) Loss or substantial impairment of a bodily function.

(e) Serious visible disfigurement.

(f) A comatose state that lasts for more than 3 days.

(g) Measurable brain damage or mental impairment.

(h) A skull fracture or other serious bone fracture.

(i) Subdural hemorrhage or subdural hematoma.

(j) Loss of an organ.

(4) An individual who violates subsection (1) and causes the death of another individual by the discharge or use in any manner of a firearm is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not less than $2,500.00 or more than $10,000.00, or both.

(5) A peace officer who has probable cause to believe an individual violated subsection (1) may require the individual to submit to a chemical analysis of his or her breath, blood, or urine. However, an individual who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician is not required to submit to a chemical analysis of his or her blood.

(6) Before an individual is required to submit to a chemical analysis under subsection (5), the peace officer shall inform the individual of all of the following:

(a) The individual may refuse to submit to the chemical analysis, but if he or she refuses, the officer may obtain a court order requiring the individual to submit to a chemical analysis.

(b) If the individual submits to the chemical analysis, he or she may obtain a chemical analysis from a person of his or her own choosing.

(7) The failure of a peace officer to comply with the requirements of subsection (6) does not render the results of a chemical analysis inadmissible as evidence in a criminal prosecution for violating this section, in a civil action arising out of a violation of this section, or in any administrative proceeding arising out of a violation of this section.

(8) The collection and testing of breath, blood, or urine specimens under this section shall be conducted in the same manner that breath, blood, or urine specimens are collected and tested for alcohol-- and controlled-substance-related driving violations under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(9) This section does not prohibit the individual from being charged with, convicted of, or sentenced for any other violation of law arising out of the same transaction as the violation of this section in lieu of being charged with, convicted of, or sentenced for the violation of this section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.237;—Am. 2001, Act 135, Eff. Feb. 1, 2002.

Former law: See sections 1 and 2 of Act 25 of 1929, being CL 1929, §§ 16780 and 16781.

750.237a Individuals engaging in proscribed conduct; violation; penalties; definitions.

Sec. 237a. (1) An individual who engages in conduct proscribed under section 224, 224a, 224b, 224c, 224e, 226, 227, 227a, 227f, 234a, 234b, or 234c, or who engages in conduct proscribed under section 223(2) for a second or subsequent time, in a weapon free school zone is guilty of a felony punishable by 1 or more of the following:

(a) Imprisonment for not more than the maximum term of imprisonment authorized for the section violated.

(b) Community service for not more than 150 hours.

(c) A fine of not more than 3 times the maximum fine authorized for the section violated.

(2) An individual who engages in conduct proscribed under section 223(1), 224d, 226a, 227c, 227d, 231c, 232a(1) or (4), 233, 234, 234e, 234f, 235, 236, or 237, or who engages in conduct proscribed under section 223(2) for the first time, in a weapon free school zone is guilty of a misdemeanor punishable by 1 or more of the following:

(a) Imprisonment for not more than the maximum term of imprisonment authorized for the section violated or 93 days, whichever is greater.

(b) Community service for not more than 100 hours.

(c) A fine of not more than $2,000.00 or the maximum fine authorized for the section violated, whichever is greater.

(3) Subsections (1) and (2) do not apply to conduct proscribed under a section enumerated in those subsections to the extent that the proscribed conduct is otherwise exempted or authorized under this chapter.

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(4) Except as provided in subsection (5), an individual who possesses a weapon in a weapon free school zone is guilty of a misdemeanor punishable by 1 or more of the following:

(a) Imprisonment for not more than 93 days.

(b) Community service for not more than 100 hours.

(c) A fine of not more than $2,000.00.

(5) Subsection (4) does not apply to any of the following:

(a) An individual employed by or contracted by a school if the possession of that weapon is to provide security services for the school.

(b) A peace officer.

(c) An individual licensed by this state or another state to carry a concealed weapon.

(d) An individual who possesses a weapon provided by a school or a school's instructor on school property for purposes of providing or receiving instruction in the use of that weapon.

(e) An individual who possesses a firearm on school property if that possession is with the permission of the school's principal or an agent of the school designated by the school's principal or the school board.

(f) An individual who is 18 years of age or older who is not a student at the school and who possesses a firearm on school property while transporting a student to or from the school if any of the following apply:

(*i*) The individual is carrying an antique firearm, completely unloaded, in a wrapper or container in the trunk of a vehicle while en route to or from a hunting or target shooting area or function involving the exhibition, demonstration or sale of antique firearms.

(*ii*) The individual is carrying a firearm unloaded in a wrapper or container in the trunk of the person's vehicle, while in possession of a valid Michigan hunting license or proof of valid membership in an organization having shooting range facilities, and while en route to or from a hunting or target shooting area.

(*iii*) The person is carrying a firearm unloaded in a wrapper or container in the trunk of the person's vehicle from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business, or in moving goods from one place of abode or business to another place of abode or business.

(*iv*) The person is carrying an unloaded firearm in the passenger compartment of a vehicle that does not have a trunk, if the person is otherwise complying with the requirements of subparagraph (*ii*) or (*iii*) and the wrapper or container is not readily accessible to the occupants of the vehicle.

(6) As used in this section:

(a) "Antique firearm" means either of the following:

(*i*) A firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including a matchlock, flintlock, percussion cap, or similar type of ignition system or a replica of such a firearm, whether actually manufactured before or after the year 1898.

(*ii*) A firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(b) "School" means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12.

(c) "School property" means a building, playing field, or property used for school purposes to impart instruction to children or used for functions and events sponsored by a school, except a building used primarily for adult education or college extension courses.

(d) "Weapon free school zone" means school property and a vehicle used by a school to transport students to or from school property.

History: Add. 1994, Act 158, Eff. Aug. 15, 1994.

750.238 Search warrant.

Sec. 238. Search warrant—When complaint shall be made on oath to any magistrate authorized to issue warrants in criminal cases that any pistol or other weapon or device mentioned in this chapter is unlawfully possessed or carried by any person, such magistrate shall, if he be satisfied that there is reasonable cause to believe the matters in said complaint be true, issue his warrant directed to any peace officer, commanding him to search the person or place described in such complaint, and if such pistol, weapon or device be there found, to seize and hold the same as evidence of a violation of this chapter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.238.

750.239 Forfeiture of weapons.

Sec. 239. All pistols, weapons or devices carried, possessed or used contrary to this chapter are hereby declared forfeited to the state, and shall be turned over to the commissioner of the Michigan state police or his

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designated representative, for such disposition as the commissioner may prescribe.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.239;—Am. 1949, Act 168, Eff. Sept. 23, 1949;—Am. 1964, Act 215, Eff. Aug. 28, 1964.

750.239a Disposition of seized weapon.

Sec. 239a. (1) Before a firearm is turned over for disposal under section 239, the police agency that recovered or confiscated the firearm shall determine if there is a known legal owner of the firearm and whether the firearm has been reported stolen. If the police agency determines a serial number has been eradicated from the firearm, the police agency shall submit the firearm to the department of state police or a forensic laboratory for serial number restoration to determine legal ownership. In making the determination of ownership required under this subsection, the police agency shall review information contained in the law enforcement information network and examine that police agency's stolen property reports. If the police agency determines the firearm is stolen, the police agency shall notify the agency reporting the firearm as stolen and return the firearm to that agency at the conclusion of the criminal case. The agency receiving the firearm shall notify the legal owner and provide for disposition of the firearm in compliance with subsections (3) and (4).

(2) If the owner is not alleged to have been involved in the violation for which forfeiture is required or did not knowingly allow the firearm to be possessed illegally, notification shall be given at the conclusion of the criminal case but not later than 90 days before the firearm is disposed of under section 239. Notification under this subsection may be given by certified mail sent to the owner's last known address, or by personal contact with the owner.

(3) The police agency shall return a firearm to its owner if the owner claims the firearm within the notification period and that police agency determines that the owner was not involved in the violation for which the firearm was seized. Except as otherwise provided in subsection (2), a firearm shall be returned under this subsection within 30 days after the firearm is claimed by the owner unless the owner is prohibited from possessing a firearm under state or federal law.

(4) An individual claiming ownership of a firearm may petition the circuit court for return of a firearm under this section if return of the firearm is denied by the police agency or if the firearm is not returned within 30 days as required under subsection (3). The police agency shall not dispose of a firearm until the expiration of the 30-day period or, if a petition is filed under this subsection, until permitted to do so by the court.

(5) A police agency shall turn confiscated weapons over to the department of state police under section 239 not more than 1 year after final conclusion of the criminal case and expiration of the appeal period. The police agency shall first make a reasonable effort to contact the owner of the firearm to determine whether a demand for the firearm is forthcoming.

(6) A police agency that seizes a firearm for forfeiture under this act shall exercise reasonable care to protect the firearm from loss or damage while the firearm is in its custody.

(7) As used in this section, "police agency" means 1 or more of the following:

(a) The department of state police.

(b) A county sheriff's department.

(c) A police department or public safety department of a local unit of government.

(d) A police department or public safety department of a college or university.

History: Add. 1996, Act 496, Eff. Mar. 31, 1997.

CHAPTER XXXVIII
FIRES

750.240 False alarm of fire.

Sec. 240. Any person who knowingly and willfully commits 1 or more of the following actions is guilty of a misdemeanor punishable by imprisonment for not more than 1 year and a fine of not more than $1,000.00:

(a) Raise a false alarm of fire at any gathering or in any public place.

(b) Ring any bell or operate any mechanical apparatus, electrical apparatus or combination thereof, for the purpose of creating a false alarm of fire.

(c) Raise a false alarm of fire orally, by telephone or in person.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.240;—Am. 1954, Act 15, Eff. Aug. 13, 1954;—Am. 1965, Act 77, Eff. Mar. 31, 1966;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 1 and 2 of Act 16 of 1917, being CL 1929, §§ 16606 and 16607; and Act 62 of 1927.

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750.241 Firefighter; obstructing and disobeying; interfering with public service facility during riot or civil disturbance.

Sec. 241. (1) Any person who, while in the vicinity of any fire, willfully disobeys any reasonable order or rule of the officer commanding any fire department at the fire, when the order or rule is given by the commanding officer or a firefighter there present, is guilty of a misdemeanor.

(2) During a riot or other civil disturbance, any person who knowingly and willfully hinders, obstructs, endangers, or interferes with any person who is engaged in the operation, installation, repair, or maintenance of any essential public service facility, including a facility for the transmission of electricity, gas, telephone messages, or water, is guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.241;—Am. 1968, Act 328, Eff. July 3, 1968;—Am. 2002, Act 270, Eff. July 15, 2002.

Former law: See section 1 of Act 239 of 1921, being CL 1929, § 16644.

750.242 Traction engines using wood fuel; spark arresters.

Sec. 242. Spark arresters on traction engines using wood fuel—Any person who shall own or operate upon the premises of any inhabitant of this state, or upon the highway, any traction or other portable steam engine, unless said engine shall be equipped with an efficient spark arrester at all times when in use and using wood as a fuel, and with proper fire extinguishers, either liquid or dry, shall be guilty of a misdemeanor. All traction or other portable engines using wood for fuel shall be equipped with bonnet spark arresters having an oval top of number 10 mesh, 22 gauge wire and sides composed of number 6 mesh, 16 gauge wire.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.242.

Former law: See sections 1 and 2 of Act 339 of 1913, being CL 1915, §§ 7368 and 7369; and CL 1929, §§ 8924 and 8925.

CHAPTER XXXIX
FIREWORKS

750.243 Repealed. 1968, Act 358, Eff. Jan. 1, 1969.

Compiler's note: The repealed section pertained to unlawful sale, possession, and transportation of fireworks.

750.243a Definitions; prohibited sales and conduct; fireworks for which permit not required.

Sec. 243a. (1) As used in this chapter:

(a) "Fireworks" means a device made from explosive or flammable compositions used primarily for the purpose of producing a visible display or audible effect, or both, by combustion, deflagration, or detonation. Fireworks includes class B fireworks and class C fireworks.

(b) "Class B fireworks" means toy torpedoes, railway torpedoes, firecrackers or salutes that do not qualify as class C fireworks, exhibition display pieces, aeroplane flares, illuminating projectiles, incendiary projectiles, incendiary grenades, smoke projectiles or bombs containing expelling charges but without bursting charges, flash powders in inner units not exceeding 2 ounces each, flash sheets in interior packages, flash powder or spreader cartridges containing not more than 72 grains of flash powder each, and other similar devices.

(c) "Class C fireworks" means toy smoke devices, toy caps containing not more than .25 grains of explosive mixture, toy propellant devices, cigarette loads, trick matches, trick noise makers, smoke candles, smoke pots, smoke grenades, smoke signals, hand signal devices, Very signal cartridges, sparklers, explosive auto alarms, and other similar devices.

(2) Except as provided in subsection (3) and sections 243b, 243c, and 243d, a person, firm, partnership, or corporation shall not offer for sale, expose for sale, sell at retail, keep with intent to sell at retail, possess, give, furnish, transport, use, explode, or cause to explode any of the following:

(a) A blank cartridge, blank cartridge pistol, toy cannon, toy cane, or toy gun in which explosives are used.

(b) An unmanned balloon which requires fire underneath to propel it and is not moored to the ground while aloft.

(c) Firecrackers, torpedoes, skyrockets, roman candles, daygo bombs, bottle rockets, whistling chasers, rockets on sticks, or other fireworks of like construction.

(d) Fireworks containing an explosive or inflammable compound or a tablet or other device commonly used and sold as fireworks containing nitrates, fulminates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus, or a compound containing these or other modern explosives.

(3) A permit is not required for the following:

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(a) Flat paper caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.

(b) Toy pistols, toy cannons, toy canes, toy trick noise makers, and toy guns of a type approved by the director of the department of state police in which paper caps as described in subdivision (a) are used and which are so constructed that the hand cannot come in contact with the cap when in place for the explosion and which are not designed to break apart or be separated so as to form a missile by the explosion.

(c) Sparklers containing not more than .0125 pounds of burning portion per sparkler.

(d) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter, cone fountains, and cylinder fountains.

(e) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.

(f) Possession, transportation, sale, or use of signal flares of a type approved by the director of the department of state police, blank cartridges or blank cartridge pistols specifically for a show or theater, for the training or exhibiting of dogs, for signal purposes in athletic sports, for use by military organizations, and all items described in subsection (2) used by railroads for emergency signal purposes.

(g) The sale of fireworks, provided they are to be shipped directly out of state pursuant to regulations of the United States department of transportation covering the transportation of explosives and other dangerous articles by motor, rail, and water.

History: Add. 1968, Act 358, Eff. Jan. 1, 1969;—Am. 1976, Act 36, Imd. Eff. Mar. 9, 1976;—Am. 1978, Act 258, Eff. July 1, 1978;—Am. 1980, Act 422, Eff. Mar. 31, 1981.

750.243b Permit for use or sale of fireworks.

Sec. 243b. (1) The council or commission of a city or village or the township board of a township, upon application in writing, on forms provided by the director of the department of state police, may grant a permit for the use of fireworks otherwise prohibited by section 243a, within their political jurisdiction, manufactured for outdoor pest control or agricultural purposes, or for public display by municipalities, fair associations, amusement parks, or other organizations or groups of individuals approved by the city, village, or township authority, if the applicable provisions of this act are complied with. The permits shall be on forms provided by the director of the department of state police. After a permit has been granted, sales, possession, or transportation of fireworks for the purposes described in the permit only may be made. A permit granted under this subsection shall not be transferable, nor shall a permit be issued to a person under the age of 18 years.

(2) The council or commission of a city or village or the township board of a township, upon application in writing, may grant a permit, on forms provided by the director of the department of state police, to a resident wholesale dealer or jobber to have in his possession within the political jurisdiction, fireworks otherwise prohibited by section 243a, for sale only to holders of permits as provided in this section. A permit granted under this subsection is not transferable, nor shall a permit be issued to a person under the age of 18 years.

(3) Before a permit for a pyrotechnic display is issued, the person, firm, or corporation making application therefor shall furnish proof of financial responsibility by a bond or insurance in an amount deemed necessary by the local governing authority to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the person, firm, or corporation, or an agent or employee thereof, in the amount, character, and form the local authority determines necessary for the protection of the public.

(4) A permit shall not be issued under this act to a nonresident person, firm, or corporation for conduct of a pyrotechnic display in this state until the person, firm, or corporation has appointed in writing a resident member of the bar of this state or a resident agent to be his legal representative upon whom all process in an action or proceeding against him may be served.

(5) The local governing authority shall rule on the competency and qualifications of operators of pyrotechnic displays, as the operator has furnished in his application form, and on the time, place, and safety aspects of the displays before granting permits.

History: Add. 1968, Act 358, Eff. Jan. 1, 1969;—Am. 1972, Act 14, Imd. Eff. Feb. 19, 1972;—Am. 1976, Act 36, Imd. Eff. Mar. 9, 1976.

750.243c Permit for intrastate transportation of fireworks.

Sec. 243c. Transportation of fireworks intrastate shall be made only with the permits provided for in this act and as follows:

(a) In accordance with United States department of transportation regulations for transportation of explosives and other dangerous articles by motor, rail, and water, including specifications for shipping

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containers.

(b) In nonpassenger carrying vehicles, in charge of a competent driver not less than 18 years of age, which are equipped with a 15-pound carbon dioxide or a 10-pound dry chemical fire extinguisher; and in or near which smoking shall be prohibited while loading, unloading, or transporting fireworks.

History: Add. 1968, Act 358, Eff. Jan. 1, 1969;—Am. 1972, Act 14, Imd. Eff. Feb. 19, 1972;—Am. 1976, Act 36, Imd. Eff. Mar. 9, 1976.

750.243d Storage of fireworks at sites of wholesalers, dealers, and jobbers; exception.

Sec. 243d. The storage of fireworks at the site of a wholesaler, dealer, or jobber, except for a retailer who has goods on hand for sale to the public in a supervised display area, shall be as follows:

(a) In a 1 story, noncombustible building without a basement, which building is weather resistant, well ventilated, and equipped with a strong door kept securely locked except when open for business.

(b) The location of the storage building shall be approved by the local governing authority having jurisdiction, and shall be located not less than the following distances from inhabited buildings, passenger railroads, and public highways according to the number of pounds of fireworks stored, rounded to the nearest pound:

Net Weight of Fireworks	Distance From Passenger Railways and Public Highways		Distance From Inhabited Buildings	
	Class C Fireworks	Class B Fireworks	Class C Fireworks	Class B Fireworks
Pounds	Feet	Feet	Feet	Feet
100 or less	25	200	50	200
101 to 200	30	200	60	200
201 to 400	35	200	70	200
401 to 600	40	200	80	208
601 to 800	45	200	90	252
801 to 1,000	50	200	100	292
1,001 to 2,000	58	230	115	459
2,001 to 3,000	62	296	124	592
3,001 to 4,000	65	352	130	704
4,001 to 5,000	68	400	135	800
5,001 to 6,000	70	441	139	882
6,001 to 8,000	73	509	140	1,018
8,001 to 10,000	75	565	150	1,129
10,001 to 15,000	80	668	159	1,335
15,001 to 20,000	83	745	165	1,490
20,001 to 30,000	87	863	174	1,725
30,001 to 40,000	90	953	180	1,906
40,001 to 50,000	93	1,030	185	2,060
50,001 to 60,000	95	1,095	189	2,190
60,001 to 80,000	98	1,205	195	2,410
80,001 to 100,000	100	1,300	200	2,600
100,001 to 150,000	105	1,488	209	2,975
151,001 to 200,000	108	1,638	215	3,275
200,001 or more	110	1,765	220	3,530

(c) A person shall not cause or allow smoking, matches, open flames, spark producing devices, or firearms inside of or within 50 feet of a building used for the storage of fireworks. A person shall not store combustible materials within 50 feet of a building used for the storage of fireworks.

(d) The interior of a building used for the storage of fireworks shall be kept clean and free from debris and empty containers. A person shall not use a building used for the storage of fireworks for the storage of any metal tools or any commodity other than fireworks.

(e) A person shall not provide a building used for the storage of fireworks with heat or lights, except that if lights are necessary, an electric safety flashlight or safety lantern shall be used.

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(f) A building used for the storage of fireworks shall bear lettering on each side and top in letters not less than 4 inches high, the words "explosives—keep fire away".

(g) A building used for the storage of fireworks shall be under the supervision of a competent person, who shall be not less than 18 years of age.

(h) In addition to the requirements of subdivision (b), salutes that do not qualify as class C fireworks shall be considered to be hazardous material and shall be stored in accordance with rules for the storage and handling of hazardous material promulgated under section 3c of Act No. 207 of the Public Acts of 1941, as amended, being section 29.3c of the Michigan Compiled Laws.

History: Add. 1968, Act 358, Eff. Jan. 1, 1969;—Am. 1972, Act 14, Imd. Eff. Feb. 19, 1972;—Am. 1974, Act 92, Imd. Eff. Apr. 25, 1974;—Am. 1976, Act 36, Imd. Eff. Mar. 9, 1976;—Am. 1980, Act 422, Eff. Mar. 31, 1981.

750.243e Violation of section; penalty; misdemeanor.

Sec. 243e. Any person, firm, copartnership or corporation, who violates any of the provisions of sections 243a to 243d, or who violates the terms of any permit issued thereunder, is guilty of a misdemeanor.

History: Add. 1968, Act 358, Eff. Jan. 1, 1969.

CHAPTER XL
FLAG AND COAT-OF-ARMS

750.244 Flag and coat-of-arms; definitions.

Sec. 244. Definitions—The words "flag", "standard", "color", "ensign", "coat-of-arms" or "shield", as used in this chapter, shall include any flag, standard, color, ensign, coat-of-arms or shield, or copy, picture or representation thereof, made of any substance or represented or produced thereon, and of any size, evidently purporting to be such flag, standard, color, ensign, coat-of-arms or shield of the United States or of this state, or a copy, picture or representation thereof.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.244.

Former law: See section 1 of Act 222 of 1923, being CL 1929, § 17087.

750.245 Exhibition and display.

Sec. 245. Exhibition and display of flag, etc.—Any person shall be guilty of a misdemeanor who shall, in any manner, for exhibition or display:

(a) Place or cause to be placed any word, figure, mark, picture, design, drawing or advertisement of any nature upon any flag, standard, color, ensign, coat-of-arms or shield of the United States or of this state, or authorized by any law of the United States or of this state; or

(b) Expose to public view any such flag, standard, color, ensign, coat-of-arms or shield upon which shall have been printed, painted or otherwise produced, or to which shall have been attached, appended, affixed or annexed any such word, figure, mark, picture, design, drawing or advertisement; or

(c) Expose to public view for sale, manufacture, or otherwise, or to sell, give or have in possession for sale, for gift or for use for any purpose, any substance, being an article of merchandise, or receptacle, or thing for holding or carrying merchandise, upon or to which shall have been produced or attached any such flag, standard, color, ensign, coat-of-arms or shield, in order to advertise, call attention to, decorate, mark or distinguish such article or substance.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.245.

Former law: See sections 2 and 5 of Act 222 of 1923, being CL 1929, §§ 17088 and 17091.

750.246 Mutilation.

Sec. 246. Mutilation of flag, etc.—Any person who shall publicly mutilate, deface, defile, defy, trample upon or by word or act cast contempt upon any such flag, standard, color, ensign, coat-of-arms or shield, is guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.246.

Former law: See sections 3 and 5 of Act 222 of 1923, being CL 1929, §§ 17089 and 17091.

750.247 Exceptions to chapter.

Sec. 247. Exceptions—This chapter shall not apply to any act permitted by the statutes of the United States or of this state, or by the United States army and navy regulations, nor shall it apply to any printed or written document or production, stationery, ornament, picture or jewelry whereon shall be depicted said flag, standard, color, ensign, coat-of-arms or shield with no design or words thereon and disconnected with any advertisement.

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History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.247.

Former law: See section 4 of Act 222 of 1923, being CL 1929, § 17090.

CHAPTER XLI
FORGERY AND COUNTERFEITING

750.248 Forgery; intent; felony; prosecution; venue.

Sec. 248. (1) Any person who shall falsely make, alter, forge, or counterfeit any public record, or any certificate, return, or attestation of any clerk of a court, public register, notary public, township clerk, or any other public officer, in relation to any matter wherein such certificate, return, or attestation may be received as legal proof, or any charter, deed, will, testament, bond, writing obligatory, letter of attorney, policy of insurance, bill of lading, bill of exchange, promissory note, or any order, acquittance of discharge for money or other property, or any waiver, release, claim or demand, or any acceptance of a bill of exchange, or indorsement, or assignment of a bill of exchange or promissory note for the payment of money, or any accountable receipt for money, goods, or other property, with intent to injure or defraud any person, shall be guilty of a felony, punishable by imprisonment for not more than 14 years.

(2) The venue in a prosecution under this section may be either in the county in which the forgery was performed, or in a county in which any false, forged, altered, or counterfeit record, deed, instrument, or other writing is uttered and published with intent to injure or defraud.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.248;—Am. 1964, Act 101, Eff. Aug. 28, 1964;—Am. 1967, Act 64, Eff. Nov. 2, 1967;—Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991.

Former law: See section 1 of Ch. 155 of R.S. 1846, being CL 1857, § 5802; CL 1871, § 7631; How., § 9213; CL 1897, § 11659; CL 1915, § 15432; and CL 1929, § 17048.

750.248a Uttering and publishing false, forged, altered, or counterfeit financial transaction device.

Sec. 248a. A person who utters and publishes as true any false, forged, altered, or counterfeit financial transaction device, as defined in section 157m, with the intent to injure or defraud any person is guilty of a felony.

History: Add. 1987, Act 276, Eff. Mar. 30, 1988.

750.249 Forgery of records and other instruments; uttering and publishing.

Sec. 249. Uttering and publishing forged instruments—Any person who shall utter and publish as true, any false, forged, altered or counterfeit record, deed, instrument or other writing mentioned in the preceding section, knowing the same to be false, altered, forged or counterfeit, with intent to injure or defraud as aforesaid, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 14 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.249.

Former law: See section 2 of Ch. 155 of R.S. 1846, being CL 1857, § 5803; CL 1871, § 7632; How., § 9214; CL 1897, § 11660; CL 1915, § 15433; and CL 1929, § 17049.

750.249a Use or employment of tool or instrument to make counterfeit financial transaction device.

Sec. 249a. A person who casts, stamps, engraves, makes, or mends, or knowingly has in his or her possession a mold, pattern, die, puncheon, engine, press, or other tool or instrument adapted and designed for making a false, forged, altered, or counterfeit financial transaction device, as defined in section 157m, with the intent to use or employ or cause or permit the same to be used or employed in making a counterfeit financial transaction device is guilty of a felony.

History: Add. 1987, Act 276, Eff. Mar. 30, 1988.

750.250 Forgery of notes issued for debt of state or political subdivisions.

Sec. 250. Forgery of notes, etc., issued for debt of state—Any person who shall falsely make, alter, forge or counterfeit any note, certificate, bond, warrant or other instrument, issued by the treasurer or other officer authorized to issue the same, of this state, or any of its political subdivisions or municipalities, with intent to injure or defraud as aforesaid, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 7 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1934, 1st Ex. Sess., Act 16, Imd. Eff. Mar. 28, 1934;—CL 1948, 750.250.

Former law: See section 3 of Ch. 155 of R.S. 1846, being CL 1857, § 5804; CL 1871, § 7633; How., § 9215; CL 1897, § 11661; CL 1915, § 15434; and CL 1929, § 17050.

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750.251 Forgery of bank bills and promissory notes.

Sec. 251. Forgery of bank bills and notes—Any person who shall falsely make, alter, forge, or counterfeit any bank bill or promissory note payable to the bearer thereof, or to the order of any person, issued by this state, or any of its political subdivisions or municipalities or by any incorporated banking company in this state, or in any of the British provinces of North America, or in any other state or country, or payable therein, at the office of any banking company incorporated by any law of the United States or of any other state, with intent to injure or defraud any person, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 7 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1934, 1st Ex. Sess., Act 16, Imd. Eff. Mar. 28, 1934;—CL 1948, 750.251.

Former law: See section 4 of Ch. 155 of R.S. 1846, being CL 1857, § 5805; CL 1871, § 7634; How., § 9216; CL 1897, § 11662; CL 1915, § 15435; CL 1929, § 17051; and Act 33 of 1849.

750.252 Possession of counterfeit notes with intent to utter same as true.

Sec. 252. Possession of counterfeit notes, etc., with intent to utter same—Any person who shall have in his possession at the same time, 10 or more similar false, altered, forged or counterfeit notes, bills of credit, bank bills or notes of this state, or any of its political subdivisions or municipalities, payable to the bearer thereof, or to the order of any person, such as are mentioned in the preceding sections of this chapter, knowing the same to be false, altered, forged or counterfeit, with intent to utter the same as true, and thereby to injure and defraud as aforesaid, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 7 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1934, 1st Ex. Sess., Act 16, Imd. Eff. Mar. 28, 1934;—CL 1948, 750.252.

Former law: See section 5 of Ch. 155 of R.S. 1846, being CL 1857, § 5806; CL 1871, § 7635; How., § 9217; CL 1897, § 11663; CL 1915, § 15436; and CL 1929, § 17052.

750.253 Uttering counterfeit notes as true.

Sec. 253. Uttering counterfeit notes, etc.—Any person who shall utter or pass, or tender in payment as true, any such false, altered, forged or counterfeit note, certificate or bill of credit for any debt of this state, or any of its political subdivisions or municipalities, any bank bill or promissory note, payable to the bearer thereof, or to the order of any person, issued as aforesaid, knowing the same to be false, altered, forged or counterfeit, with intent to injure or defraud as aforesaid, shall be guilty of a felony, punishable by imprisonment of not more than 5 years or by fine of not more than 2,500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1934, 1st Ex. Sess., Act 16, Imd. Eff. Mar. 28, 1934;—CL 1948, 750.253.

Former law: See section 6 of Ch. 155 of R.S. 1846, being CL 1857, § 5807; CL 1871, § 7636; How., § 9218; CL 1897, § 11664; CL 1915, § 15437; and CL 1929, § 17053.

750.254 Possession of counterfeit bank, state or municipal bills or notes.

Sec. 254. Possession of counterfeit bank bills, etc.—Any person who shall bring into this state, or shall have in his possession, any false, altered, forged or counterfeit bill or note in the similitude of the bills or notes payable to the bearer thereof, or to the order of any person issued by or for this state, or any of its political subdivisions or municipalities, or any bank or banking company, established in this state, or in any of the British provinces in North America, or in any other state or country, with intent to utter or pass the same, or to render the same current as true, knowing the same to be false, forged or counterfeit, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years, or by fine of not more than 2,500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1934, 1st Ex. Sess., Act 16, Imd. Eff. Mar. 28, 1934;—CL 1948, 750.254.

Former law: See section 8 of Ch. 155 of R.S. 1846, being CL 1857, § 5809; CL 1871, § 7638; How., § 9220; CL 1897, § 11666; CL 1915, § 15439; and CL 1929, § 17055.

750.255 Tools and implements for counterfeiting bills or notes.

Sec. 255. Tools and implements for counterfeiting notes—Any person who shall engrave, make or mend, or begin to engrave, make or mend, any plate, block, press or other tool, instrument or implement, or shall make or provide any paper or other material, adapted or designed for the forging and making any false or counterfeit note, certificate or other bill of credit in the similitude of the notes, certificates, bills of credit issued by lawful authority for any debt of this state, or any of its political subdivisions or municipalities, or any false or counterfeit note or bill in the similitude of the notes or bills issued by any bank or banking company established in this state, or within the United States, or in any of the British provinces in North America, or in any foreign state or country; and any person who shall have in his possession any such plate or block, engraved in whole or in part, or any press or other tool, instrument or implement, or any paper or other

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material, adapted and designed as aforesaid, with intent to use the same, or to cause or permit the same to be used in forging or making any such false or counterfeit certificates, bills or notes, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by fine of not more than 5,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1934, 1st Ex. Sess., Act 16, Imd. Eff. Mar. 28, 1934;—CL 1948, 750.255.

Former law: See section 9 of Ch. 155 of R.S. 1846, being CL 1857, § 5810; CL 1871, § 7639; How., § 9221; CL 1897, § 11667; CL 1915, § 15440; and CL 1929, § 17056.

750.256 Testimony of president and cashier of bank.

Sec. 256. Testimony of president and cashier of bank—In all prosecutions for forging or counterfeiting any notes or bills of the bank before mentioned, or for altering, publishing or tendering in payment as true, any forged or counterfeit bank bills or notes, or for being possessed thereof, with intent to alter and pass the same as true, the testimony of the president and cashier of such bank may be dispensed with, if their place of residence shall be out of this state, or more than 40 miles from the place of trial; and the testimony of any person acquainted with the signature of the president or cashier of such banks, or who has knowledge of the difference in appearance of the true and counterfeit bills or notes thereof, may be admitted to prove that any such bills or notes are counterfeit; and the lawful existence of any bank out of this state shall be presumed upon evidence that such bank is actually engaged in the business of a bank.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.256.

Former law: See section 10 of Ch. 155 of R.S. 1846, being CL 1857, § 5811; CL 1871, § 7640; How., § 9222; CL 1897, § 11668; CL 1915, § 15441; and CL 1929, § 17057.

750.257 Sworn certificate; evidence.

Sec. 257. Sworn certificate made evidence—In all prosecutions for forging or counterfeiting any note, certificate, bills of credit or other security issued in behalf of the United States, or in behalf of any state or territory, or for uttering, publishing or tendering in payment as true, any such forged or counterfeit note, certificate, bill of credit, or security, or for being possessed thereof with intent to utter or pass the same as true, the certificate under oath of the secretary of the treasury, or of the treasurer of the United States, or of the secretary or treasurer of any state or territory on whose behalf such note, certificate, bill of credit or security, purports to have been issued, shall be admitted as evidence for the purpose of proving the same to be forged or counterfeit.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.257.

Former law: See section 11 of Ch. 155 of R.S. 1846, being CL 1857, § 5812; CL 1871, § 7641; How., § 9223; CL 1897, § 11669; CL 1915, § 15442; and CL 1929, § 17058.

750.258 Connecting parts of instruments.

Sec. 258. Connecting parts of instruments—If any person shall connect together different parts of several bank notes or other genuine instruments in such a manner as to produce an additional note or instrument, with intent to pass all of them as genuine, the same shall be deemed a forgery, in like manner as if each of them had been falsely made or forged.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.258.

Former law: See section 12 of Ch. 155 of R.S. 1846, being CL 1857, § 5813; CL 1871, § 7642; How., § 9224; CL 1897, § 11670; CL 1915, § 15443; and CL 1929, § 17059.

750.259 Affixing fictitious signature.

Sec. 259. Affixing fictitious signature—If any fictitious or pretended signature, purporting to be the signature of an officer or agent of any corporation, shall be fraudulently affixed to any instrument or writing, purporting to be a note, draft or other evidence of debt, issued by said corporation, with intent to pass the same as true, it shall be deemed a forgery, though no such person may ever have been an officer or agent of such corporation, nor ever have existed.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.259.

Former law: See section 13 of Ch. 155 of R.S. 1846, being CL 1857, § 5814; CL 1871, § 7643; How., § 9225; CL 1897, § 11671; CL 1915, § 15444; and CL 1929, § 17060.

750.260 Coins; counterfeiting and possession.

Sec. 260. Counterfeiting and possession of coins—Any person who shall counterfeit any gold or silver coin, current by law or usage within this state, and every person who shall have in his possession, at the same time, 5 or more pieces of false money or coin, counterfeited in the similitude of any gold or silver coin current as aforesaid, knowing the same to be false and counterfeit, and with intent to utter or pass the same as true,

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shall be guilty of a felony, punishable by imprisonment in the state prison for life, or for any term of years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.260.

Former law: See section 15 of Ch. 155 of R.S. 1846, being CL 1857, § 5816; CL 1871, § 7645; How., § 9227; CL 1897, § 11673; CL 1915, § 15446; and CL 1929, § 17062.

750.261 Coins; counterfeiting; possession of less than 5 counterfeit.

Sec. 261. Possession of less than 5 pieces of counterfeit coin—Any person who shall have in his possession any number of pieces less than 5, of the counterfeit coin mentioned in the next preceding section, knowing the same to be counterfeit, with intent to utter and pass the same as true, and any person who shall utter, pass, or tender in payment as true, any such counterfeit coin, knowing the same to be false and counterfeit, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by a fine of not more than 5,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.261.

Former law: See section 16 of Ch. 155 of R.S. 1846, being CL 1857, § 5817; CL 1871, § 7646; How., § 9228; CL 1897, § 11674; CL 1915, § 15447; and CL 1929, § 17063.

750.262 Counterfeiting; tools.

Sec. 262. Tools, etc., for counterfeiting coins—Any person who shall cast, stamp, engrave, make or mend, or shall knowingly have in his possession, any mould, pattern, die, puncheon, engine, press or other tool or instrument, adapted and designed for coining or making any counterfeit coin, in the similitude of any gold or silver coin, current by law or usage in this state, with intent to use or employ the same, or to cause or permit the same to be used or employed in coining or making any such false and counterfeit coin as aforesaid, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by a fine of not more than 5,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.262.

Former law: See section 18 of Ch. 155 of R.S. 1846, being CL 1857, § 5819; CL 1871, § 7648; How., § 9230; CL 1897, § 11676; CL 1915, § 15449; and CL 1929, § 17065.

750.263 Counterfeit marks.

Sec. 263. (1) A person who willfully counterfeits an identifying mark with intent to deceive or defraud another person or to represent an item of property or service as bearing or identified by an authorized identifying mark 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.

(2) Except as provided in subsection (3), a person who willfully delivers, offers to deliver, uses, displays, advertises, or possesses with intent to deliver any item of property or services bearing, or identified by a counterfeit mark, 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 3 times the aggregate value of the violation, whichever is greater, or both imprisonment and a fine.

(3) A person who violates subsection (2) is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $50,000.00 or 3 times the aggregate value of the violation, whichever is greater, or both imprisonment and a fine, if any of the following apply:

(a) The person has a prior conviction under this section, section 264 or 265a, or former section 265 or a law of the United States or another state substantially corresponding to this section, section 264 or 265a, or former section 265.

(b) The violation involved more than 100 items of property.

(c) The aggregate value of the violation is more than $1,000.00.

(4) A person who willfully manufactures or produces an item of property bearing or identified by a counterfeit mark is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $50,000.00 or 3 times the aggregate value of the violation, whichever is greater, or both imprisonment and a fine.

(5) Willful possession of more than 25 items of property bearing or identified by a counterfeit mark gives rise to a rebuttable presumption that the person possessed those items with intent to deliver them in violation of subsection (2).

(6) Any item of property bearing a counterfeit mark shall be seized under warrant or incident to a lawful arrest. An item of property that bears a counterfeit mark is subject to forfeiture in the same manner as provided in sections 4701 to 4709 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709. Upon determination that an item of property bears a counterfeit mark, the court shall order the item forfeited and shall do 1 of the following:

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(a) If the owner of the identifying mark requests, return the item to that owner for destruction or another disposition or use approved by the court.

(b) In the absence of a request under subdivision (a), order the seizing law enforcement agency to destroy the item as contraband or order an alternative disposition or use with the consent of the owner of the identifying mark.

(7) As used in this section and section 264:

(a) "Aggregate value of the violation" means the total value of all items of property or services bearing or identified by a counterfeit mark and involved in the violation, determined using the defendant's regular or intended selling price for each item or service or, if an item of property is intended as a component of a finished product, the defendant's regular or intended selling price of the finished product in which the component would be used.

(b) "Counterfeit mark" means either of the following:

(*i*) A copy or imitation of an identifying mark without authorization by the identifying mark's owner.

(*ii*) An identifying mark affixed to an item of property or identifying services without authorization by the identifying mark's owner.

(c) "Deliver" means to actually or constructively transfer or attempt to transfer an item of property from 1 person to another, regardless of whether there is an agency relationship.

(d) "Identifying mark" means a trademark, service mark, trade name, name, label, device, design, symbol, or word, in any combination, lawfully adopted or used by a person to identify items of property manufactured, sold, or licensed by the person or services performed by the person.

(e) "Person" means an individual, partnership, corporation, limited liability company, association, union, or other legal entity. For purposes of ownership of an identifying mark, person includes a governmental entity.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.263;—Am. 1997, Act 155, Eff. Mar. 1, 1998;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 22 of 1863, being CL 1871, § 7649; How., § 9231; CL 1897, § 11677; CL 1915, § 15450; and CL 1929, § 8966.

750.264 Possession of counterfeit mark, die, plate, engraving, template, pattern, or material; violation as misdemeanor; penalty.

Sec. 264. A person who possesses a counterfeit mark with intent to use or deliver it, who possesses a die, plate, engraving, template, pattern, or material with intent to create a counterfeit mark, or who possesses an identifying mark without authorization of the identifying mark's owner and with intent to create a counterfeit mark 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: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.264;—Am. 1997, Act 155, Eff. Mar. 1, 1998;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 2 of Act 22 of 1863, being CL 1871, § 7650; How., § 9232; CL 1897, § 11678; CL 1915, § 15451; and CL 1929, § 8967.

750.265 Repealed. 1997, Act 155, Eff. Mar. 31, 1998.

Compiler's note: The repealed section pertained to selling goods bearing forged labels.

750.265a Union label; counterfeiting, imitation, unauthorized use.

Sec. 265a. Any person who counterfeits or imitates any union label, or who uses any union label without authority of the particular labor organization or association of working-men whose union label is being so used, shall be guilty of a misdemeanor. A union label for the purposes of this section is defined as a trademark, term, design, symbol or device of a labor organization or association of working-men adopted by them to distinguish their craft, trade or work or membership in or indicating work done by such labor organization or association of working-men.

History: Add. 1957, Act 62, Eff. Sept. 27, 1957.

750.266 Repealed. 2002, Act 296, Imd. Eff. May 9, 2002.

Compiler's note: The repealed section pertained to forged railroad passenger tickets.

CHAPTER XLII
FORTUNE TELLING

750.267-750.270 Repealed. 1993, Act 282, Eff. Apr. 1, 1994.

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CHAPTER XLIII
FRAUDS AND CHEATS

750.271 Domestic corporations; securities, fraudulent issue and sale.

Sec. 271. Fraudulent issue and sale of securities of domestic corporations—Any person or persons who shall fraudulently issue or cause to be issued, any stock, scrip, or evidence of debt, of any bank, insurance, mining or other incorporated company of this state, or who shall sell or offer for sale, hypothecate, or otherwise dispose of any such stock, scrip or other evidence of debt, knowing the same to be so fraudulently issued, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.271.

Former law: See section 1 of Act 128 of 1855, being CL 1857, § 5908; CL 1871, § 7753; How., § 9349; CL 1897, § 11362; CL 1915, § 15080; and CL 1929, § 9804.

750.272 Foreign corporations; stock, fraudulently issued, sale.

Sec. 272. Knowingly selling fraudulently issued stock of foreign corporations—Any person or persons who shall sell or offer for sale any stock fraudulently issued, and purporting to be the stock, scrip or evidence of debt of any corporation located out of the state of Michigan, knowing the same to be so fraudulently issued, or shall hypothecate, or in any manner dispose of the same for value, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.272.

Former law: See section 2 of Act 128 of 1855, being CL 1857, § 5909; CL 1871, § 7754; How., § 9350; CL 1897, § 11363; CL 1915, § 15081; and CL 1929, § 9805.

750.273 Signature; fraudulently obtaining.

Sec. 273. Fraudulently obtaining signature to note, etc.—Any person who shall, by representing that he is the agent of any person, company, firm or corporation, or by any other means, fraudulently obtain the signature of any person with the intent to cheat and defraud such person, to any promissory note, bill of exchange, due bill, order, contract or any paper writing whatever, shall be guilty of felony, punishable by imprisonment in the state prison not more than 10 years or by fine of not more than 5,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.273.

Former law: See section 1 of Act 228 of 1879, being How., § 9353; CL 1897, § 11366; CL 1915, § 15084; and CL 1929, § 16994.

750.274 Note; fraudulent signature; knowingly purchasing, collection.

Sec. 274. Purchasing and attempting to collect a note, knowing signature was fraudulently obtained—Any person who shall receive into his possession for collection or sale or who shall purchase any promissory note, bill of exchange, due bill, order, contract, or paper writing whatever, obtained in the manner mentioned in the preceding section of this chapter, knowing the same to have been obtained with the intent to cheat and defraud, and any person who shall take any steps to collect any promissory note, bill of exchange, due bill, order, contract, paper or writing whatever, knowing the signature to have been obtained by fraud, with intent to cheat and defraud, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by fine of not more than 5,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.274.

Former law: See section 2 of Act 228 of 1879, being How., § 9354; CL 1897, § 11367; CL 1915, § 15085; and CL 1929, § 16995.

750.275 Warranty deed or similar words; use.

Sec. 275. Use of words "warranty deed" or similar words—Any person who shall print, sell or keep for sale any blank forms of deeds containing the words "warranty deed", or "warranty-deed-covenant-own-acts", or any similar words printed or written thereon, unless such deed is in fact an absolute warranty deed, and any person who shall knowingly use any such deed for the purpose of conveying title unless the same is an absolute warranty deed, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.275.

Former law: See sections 1 and 2 of Act 177 of 1885, being How., §§ 9354a and 9354b; CL 1897, §§ 11368 and 11369; CL 1915, §§ 15086 and 15087; and CL 1929, §§ 13325 and 13326.

750.276 Promise to vendee of grain to sell at fictitious price; signature to note.

Sec. 276. Procuring signature to note, etc., as consideration for promise to vendee of grain to sell same at fictitious price—Any person who, either for his own benefit, or as the agent of any corporation, company, association or person, procures the signature of any person or maker, indorser, guarantor or surety thereon, to

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any bond, bill, receipt, promissory note, draft, check or any other evidence of indebtedness as the whole or part consideration for any bond, contract, agreement or promise given to the vendee of any grain, seed or other cereals, binding the vendor or any other person, corporation, company or association, or the agent thereof, to sell for such vendee any grain, seed, or cereals at a fictitious price, or at a price equal to or more than twice the market price of such grain, seed or cereals, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.276.

Former law: See sections 1 and 3 of Act 20 of 1887, being How., §§ 9354c and 9354e; CL 1897, §§ 11370 and 11372; CL 1915, §§ 15088 and 15090; and CL 1929, §§ 16631 and 16633.

750.277 Promise to vendee of grain to sell at fictitious price; sale and transfer.

Sec. 277. Sale and transfer of note, etc., signature to which was procured as consideration for promise to vendee of grain to sell at fictitious price—Any person who shall sell, barter or dispose of, either for his own benefit or as the agent of any corporation, company, association or person, any bond, bill, receipt, promissory note, draft, check or other evidence of indebtedness, knowing the same to have been obtained as the whole or part consideration for any bond, contract, agreement, or promise given to the vendee of any grain, seed or cereals, binding the vendor or any other person, corporation, company or association, or agent thereof, to sell for such vendee any grain, seed or cereals, at a fictitious price, or at a price equal to or more than twice the market price of such grain, seed, or cereals, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.277.

Former law: See sections 2 and 3 of Act 20 of 1887, being How., §§ 9354d and 9354e; CL 1897, §§ 11371 and 11372; CL 1915, §§ 15089 and 15090; and CL 1929, §§ 16632 and 16633.

750.278 Fraudulent warehouse receipts; executing and delivering.

Sec. 278. Knowingly executing and delivering fraudulent warehouse receipts—Any warehouseman or forwarding merchant or any other person, or the agent or servant of any warehouseman or forwarding merchant or other person, who shall knowingly execute and deliver to any person a receipt or certificate purporting to be for flour, wheat, pot or pearl ashes, or any grain, produce or thing of value, as being at the time of executing and delivering such receipt in possession of such warehouseman or forwarding merchant, or other person, or in store for the person or persons, copartnership, or firm named in any such receipt or certificate, without being at the time of executing and delivering such receipt in the actual possession of such flour, wheat, pot or pearl ashes, or any grain, produce or thing of value, as expressed in such certificate or receipt, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or by fine of not more than 2,500 dollars.

The sending or forwarding to a person who shall be duly entitled or authorized to receive the same, by the public mails, or through the government postoffice, or by the hands of any person, of any such receipt or certificate as aforesaid, shall be deemed to be a good and lawful delivery thereof, within the meaning of this section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.278.

Former law: See section 35 of Ch. 154 of R.S. 1846, being CL 1857, § 5779; CL 1871, § 7586; How., § 9157; CL 1897, § 11571; CL 1915, § 15316; CL 1929, § 16912; and Act 270 of 1881.

750.279 Personal property; fraudulent disposition.

Sec. 279. Fraudulent disposition of personal property—Whenever money, or any goods, wares or merchandise or other personal property, shall be delivered, committed or entrusted to, or put in charge of any person as agent with written instructions, or upon any written agreement signed by the party so instructed as agent, or such written instructions shall be delivered or such written agreement shall be made, at any time after delivery to such agent, of any money or goods, wares, merchandise, or other personal property, which instructions or agreements shall express the appropriation, purpose, or use to which such money shall be applied, or the terms, mode or manner of the application or employment of such money, or which shall express or direct the disposition or use to be made by such agent, of any goods, wares, merchandise or other personal property, so delivered or entrusted to such agent; if the person to whom any such money or goods, wares, merchandise or other personal property shall be so delivered, committed or entrusted, shall purposely and intentionally apply, appropriate, dispose of, or use any such money or goods, wares, merchandise or other personal property in any other way or manner, or for any other purpose, use or intent, than such as shall be expressed in such written instrument or agreement touching the same, the person or persons so doing, shall be guilty of felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.279.

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Former law: See section 36 of Ch. 154 of R.S. 1846, being CL 1857, § 5780; CL 1871, § 7587; How., § 9158; CL 1897, § 11572; CL 1915, § 15317; and CL 1929, § 16913.

750.280 Gross frauds and cheats at common law.

Sec. 280. Gross frauds and cheats at common law—Any person who shall be convicted of any gross fraud or cheat at common law, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by a fine of not more than 5,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.280.

Former law: See section 40 of Ch. 154 of R.S. 1846, being CL 1857, § 5784; CL 1871, § 7591; How., § 9162; CL 1897, § 11576; CL 1915, § 15321; and CL 1929, § 16917.

750.281 Repealed. 1996, Act 212, Imd. Eff. May 28, 1996.

Compiler's note: The repealed section pertained to defrauding livery stable keepers.

750.282 Offenses against water, steam, electric, or gas companies, or propane gas dealers or distributors, and boards or municipalities owning or operating plants; misdemeanor; felony; civil action not impaired by criminal prosecution; presumption; prima facie evidence of violation.

Sec. 282. (1) A person shall not do any of the following:

(a) Willfully or fraudulently injure, or fraudulently allow to be injured, a meter, wire, line, pipe, or appliance belonging to a water, steam, electric, or gas company, or propane gas dealer or distributor.

(b) Willfully or fraudulently prevent a water, steam, electric, gas, or propane gas meter belonging to a water, steam, electric, or gas company, or propane gas dealer or distributor from duly registering the quantity of water, steam, electric current, gas, or propane gas measured through the meter, or in any way hinder or interfere with the meter's proper action or just registration.

(c) Attach a line, wire, or pipe to a line, wire, pipe, or main belonging to a water, steam, electric, or gas company, or propane gas dealer or distributor. This subdivision does not apply to the use of a ground wire to ground an electrical system.

(d) Willfully or fraudulently interfere with a pressure regulator device on a propane gas tank or incorporated into a propane gas system.

(e) Use or burn or cause to be used or burned any water, steam, electric current, gas, or propane gas supplied by a water, steam, electric, or gas company, or propane gas dealer or distributor, without the written consent of the company or the propane gas dealer or distributor, or the authorized agent or officer of the company or the propane gas dealer or distributor, unless the water, steam, electric current, gas, or propane gas passes through a meter or is measured by a meter set by the company or the propane gas dealer or distributor; fraudulently use the water, steam, electric current, gas, or propane gas, or fraudulently waste the water, steam, electric current, gas, or propane gas supplied by a water, steam, electric, or gas company, or propane gas dealer or distributor.

(2) A person who violates subsection (1) is guilty of a misdemeanor if the value of the water, steam, electric current, gas, or propane gas used, burned, or wasted, or the damage caused, as a result of the violation, is not more than $500.00. A person who violates subsection (1) is guilty of a felony if the value of the water, steam, electric current, gas, or propane gas used, burned, or wasted, or the damage caused, as a result of the violation, is more than $500.00.

(3) A criminal prosecution under this section shall not in any way impair the right of the company or the propane gas dealer or distributor to full compensation in damages by civil action.

(4) The provisions of this section shall extend and apply to all offenses against all water, steam, electric, or gas companies, or propane gas dealers or distributors, and boards or municipalities owning or operating plants for producing, manufacturing, furnishing, transmitting, or conducting water, steam, electricity, or gas, either natural, liquefied, or artificial.

(5) A person who attaches any line, wire, or pipe or any other device or process to any line, wire, or pipe of a water, steam, electric, or gas company, or propane gas dealer or distributor which interferes with the proper operation and just registration of a meter within the meaning of this section, or who interferes with a pressure regulator device on a propane gas tank or incorporated into a propane gas system, is presumed to do so with intent to avoid, or to enable another to avoid, payment for the service involved.

(6) In all prosecutions under this section, proof that the defendant, other than a lessor, had control of or occupied the premises where the offense was committed, or received the benefit of the water, steam, electric current, gas, or propane gas used or consumed, shall be prima facie evidence of a violation of this section.

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History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.282;—Am. 1984, Act 37, Eff. Apr. 12, 1984;—Am. 1987, Act 32, Eff. Mar. 30, 1988.

Former law: See section 2 of Act 277 of 1911, being CL 1915, § 15362; and CL 1929, § 17043.

750.283 Fruits and vegetables sold in closed package; fraud prevention.

Sec. 283. Preventing fraud in sale of fruits and vegetables—In this section, unless the contents otherwise require, the term "closed package" shall be construed to mean a barrel, box, basket, carrier or crate, of which all the contents cannot readily be seen or inspected when such package is prepared for market. Fresh fruits or vegetables in baskets or boxes, packed in closed or open crates, and packages covered with burlap, tarlatan or slat covers shall come within the meaning of the term "closed package."

Every person who, by himself, his agent or employe, packs or repacks fresh fruits or vegetables in closed packages intended for sale in the open market, shall cause the same to be marked in a plain and indelible manner, as follows:

First, With his full name and address, including the name of the state where such fresh fruits and vegetables are packed, before such fresh fruits or vegetables are removed from the premises of the packer or dealer;

Second, The name and address of such packer or dealer shall be printed or stamped on said closed packages in letters not less than 1/4 inch in height.

No person shall sell, offer, expose or have in his possession for sale, in the open market, any fresh fruits or vegetables packed in a closed package and intended for sale, unless such package is marked as is required by this section.

No person shall sell, offer, expose or have in his possession for sale, any fresh fruits or vegetables packed in a closed or open package, upon which package is marked any designation which represents such fruit as "number one", "finest", "best", "extra good", "fancy", "selected", "prime", "standard", or other superior grade or quality, unless such fruit or vegetables consist of well grown specimens, sound, of nearly uniform size, normal shape and good color, for the variety, and not less than 90 per cent free from injurious or disfiguring bruises, diseases, insect injuries or other defects, natural deterioration and decay in transit or storage excepted.

No person shall sell, offer, expose or have in his possession for sale any fresh fruits or vegetables packed in any package in which the faced or shown surface gives a false representation of the contents of such package, and it shall be considered a false representation when more than 20 per cent of such fresh fruits or vegetables are substantially smaller in size than or inferior in grade to, or different in variety from, the faced or shown surface of such package, natural deterioration and decay in transit or storage excepted.

Any person who violates any of the provisions of this section shall be guilty of a misdemeanor. The commissioner of agriculture is hereby charged with the enforcement of this section and is given power unto himself and his inspectors to enter into and upon any premises where fruits and vegetables are graded or packed or stored to inspect the same as to grade, pack and condition.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1937, Act 116, Imd. Eff. June 25, 1937;—CL 1948, 750.283.

Former law: See sections 1 to 6 of Act 207 of 1913, being CL 1915, §§ 15365 to 15370; and CL 1929, §§ 5559 to 5564.

750.284 Genuine article; selling goods other than; marking.

Sec. 284. Selling other than genuine goods, etc., under a genuine label, stamp, etc.—Any person who, from any box, phial, case, package or other form of enclosure, having thereon impressed, or in any manner attached, the printed label, brand, engraving, stamp, mark or other device of any mechanic or manufacturer, druggist or apothecary, shall sell, barter or trade therefrom, or therein, any other goods, wares or merchandise than such as are the genuine production of the manufacturer or mechanic, druggist or apothecary, whose label, mark, stamp or device may be imprinted upon or affixed to such box, or other form of enclosure, with intent to deceive such purchaser, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.284.

Former law: See section 4 of Act 22 of 1863, being CL 1871, § 7652; How., § 9234; CL 1897, § 11680; CL 1915, § 15453; and CL 1929, § 8969.

750.285 Repealed. 2004, Act 452, Eff. Mar. 1, 2005.

Compiler's note: The repealed section pertained to obtaining personal identity information with intent to unlawfully use information.

Popular name: Indentity Theft

750.286 Repealed. 1964, Act 256, Eff. Aug. 28, 1964.

Compiler's note: The repealed section pertained to the sale or offer for sale as Michigan wheat any wheat not grown in the state as misdemeanor.

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750.287 Sterling or sterling silver marked articles; fraud in sale.

Sec. 287. Any person who knowingly makes or sells, or offers to sell or dispose of, or has in his or her possession with intent to sell or dispose of, any article of merchandise marked, stamped, or branded with the words "sterling" or "sterling silver", or encased or enclosed in any box, package, cover, or wrapper, or other thing in or by which the article is packed, enclosed, or otherwise prepared for sale or disposition, having on it an engraving or printed label, stamp, imprint, mark, or trademark, indicating or denoting by the marking, stamping, branding, engraving, or printing, that the article is silver, sterling silver, or solid silver, unless 925/1000 of the component parts of the metal of which the article is manufactured are pure silver, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.287;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 122 of 1895, being CL 1897, § 5468; CL 1915, § 7186; and CL 1929, § 8942.

750.288 Coin or coin silver; fraud in sale of articles marked.

Sec. 288. Any person who knowingly makes or sells, or offers to sell or dispose of, or has in his or her possession with intent to sell or dispose of, any article of merchandise marked, stamped, or branded with the words "coin", or "coin silver", or encased or enclosed in any box, package, cover, or wrapper, or other thing in or by which the article is packed, enclosed or otherwise prepared for sale or disposition, having on it an engraving or printed label, stamp, imprint, mark, or trademark, indicating or denoting by the marking, stamping, branding, engraving, or printing, that the article is coin or coin silver, unless 900/1000 of the component parts of the metal of which the article is manufactured are pure silver, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.288;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 2 of Act 122 of 1895, being CL 1897, § 5469; CL 1915, § 7187; and CL 1929, § 8942.

750.289 Common carrier; false billing of goods.

Sec. 289. False billing of goods to common carrier—Any person offering goods, property or effects to any common carrier within this state for the purpose of transportation shall furnish to such carrier a true description of the goods, property or effects so offered, and any person who shall knowingly offer any goods, property or effects to any common carrier for transportation within this state with a false description of the same, or who shall offer any such goods, property or effects under a false billing, false classification or false weight and thereby procure or attempt to procure the transportation of any such goods, property or effects at a less cost than would be due under a true description, true billing, true classification or true weight, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.289.

Former law: See sections 1 and 2 of Act 253 of 1911, being CL 1915, §§ 8230 and 8231; and CL 1929, §§ 11572 and 11573.

750.290 Imitation leather; boots and shoes.

Sec. 290. Boots and shoes composed of imitation leather—The term "imitation leather" as used herein shall, for the purposes of this section, be defined to be all leather composed in whole or in part of paper, scraps and portions of hides of animals, used in the manufacture of boots or shoes, which being pressed together with an adhesive substance to keep such component parts intact, is used in place of solid leather in the making of such foot gear.

Every person within this state, who is engaged in the manufacture, sale, exchange, or offers for sale, or has in possession with intent to sell, boots or shoes in the construction of which any imitation leather is used, shall cause to be stamped upon such boots or shoes the words "imitation leather" in a distinct and legible manner: Provided, however, That the letters in the words "imitation leather" shall not be less than 1/8 of an inch in length.

When such imitation leather shall be used either as soles, in-soles, heels or counters of such boots or shoes, the words "imitation leather" shall be stamped upon the outside of the soles near the heel of such boots or shoes; and when such imitation leather shall be used in the making of any other part or parts of such boots or shoes, the words "imitation leather" shall be stamped thereon, in a conspicuous place: Provided, however, Excepting the soles of such boots or shoes the words "imitation leather" need not be stamped upon the outside thereof.

The possession of any boots or shoes which are composed in whole or in part of any imitation leather and which are not stamped as herein required, shall be prima facie evidence of intent to sell the same.

Any person who shall knowingly violate any of the provisions of this section, shall be guilty of a misdemeanor.

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History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.290.

Former law: See sections 1 to 5 of Act 264 of 1897, being CL 1897, §§ 5474 to 5478; CL 1915, §§ 7192 to 7196; and CL 1929, §§ 8950 to 8954.

750.291 Boarding house keepers; defrauding.

Sec. 291. Defrauding boarding house keepers—Any person who shall stop, put up, board or lodge at any boarding house as a guest or boarder by the day, week or month, or shall procure any food, entertainment or accommodation without paying therefor, unless there is a distinct and express agreement made by such person with the owner, proprietor or keeper of such boarding house for credit, with intent to defraud such owner, proprietor or keeper out of the pay for such board, lodging, food, entertainment or accommodation, or any person who, with intent so to defraud, shall obtain credit at any boarding house for such board, lodging, food, entertainment or accommodation, by means of any false show of baggage or effects brought thereto, shall be guilty of a misdemeanor: Provided, That no conviction shall be had under the provisions of this section unless complaint shall be made within 10 days of the time of the violation hereof.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.291.

Former law: See section 1 of Act 81 of 1907, being CL 1915, § 6964; CL 1929, § 8801; and Act 87 of 1915.

750.292 Hotel, motel, inn, restaurant, cafe; defrauding; limitation on proceedings.

Sec. 292. Any person who shall put up at any hotel, motel, inn, restaurant or cafe as a guest and shall procure any food, entertainment or accommodation without paying therefor, except when credit is given therefor by express agreement, with intent to defraud such keeper thereof out of the pay for the same, or, who, with intent to defraud such keeper out of the pay therefor, shall obtain credit at any hotel, motel, inn, restaurant or cafe for such food, entertainment or accommodation, by means of any false show of baggage or effects brought thereto, is guilty of a misdemeanor. No conviction shall be had under the provisions of this section unless complaint is made within 60 days of the time of the violation hereof.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1939, Act 314, Eff. Sept. 29, 1939;—CL 1948, 750.292;—Am. 1962, Act 19, Eff. Mar. 28, 1963.

Former law: See section 1 of Act 133 of 1907, being CL 1915, § 6966; and CL 1929, § 8798.

750.293 Hotel, motel, inn, restaurant, cafe; prima facie evidence.

Sec. 293. Prima facie evidence—Obtaining such food, lodging or accommodation by false pretense, or by false or fictitious show of baggage or other property, or refusal or neglect to pay therefor on demand, or payment thereof with check, draft or order upon a bank or other depository on which payment was refused, or absconding without paying or offering to pay therefore, or surreptitiously removing or attempting to remove baggage, shall be prima facie evidence of such intent to defraud mentioned in the 2 next preceding sections of this chapter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1939, Act 314, Eff. Sept. 29, 1939;—CL 1948, 750.293.

Former law: See section 2 of Act 133 of 1907, being CL 1915, § 6967; CL 1929, § 8799; and section 2 of Act 81 of 1907, being CL 1915, § 6965; and CL 1929, § 8802.

750.294 Animals; fraudulent registration as pure-bred.

Sec. 294. Any person who by fraud or misrepresentation obtains or attempts to obtain the registration of animals as pure-bred upon the herd books of any of the recognized registry associations, when such animals are not entitled to that registration, or who by fraud or misrepresentation obtains or attempts to obtain any false record of the transfer of ownership of the registered animals, or who designedly makes any false statements in reference to the breeding, ownership, color, markings, or registration of animals or in reference to any application for the registration or transfer of animals, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.294;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 216 of 1921, being CL 1929, § 5289.

750.295 Milk and butter fat production; fraudulent practices.

Sec. 295. Any person who connives at, commits, or attempts to commit any fraudulent or dishonest practice in connection with the making of official or semiofficial records of milk and butter fat production of cows, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.295;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

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Former law: See section 1 of Act 221 of 1921, being CL 1929, § 5323.

750.296 Repealed. 1984, Act 262, Imd. Eff. Dec. 14, 1984.

Compiler's note: The repealed section pertained to sale and marking of condensed milk.

750.297-750.297d Repealed. 1966, Act 78, Imd. Eff. June 10, 1966.

Compiler's note: The repealed sections pertained to fraudulent sales and identification of kosher meat products.

750.297e Kosher food products; definition; sale; false representation; prohibited acts; evidence of fraud; inspection and supervision of sale of meat; rules; violation as misdemeanor.

Sec. 297e. (1) As used in this section, "kosher" means prepared or processed in accordance with orthodox Hebrew religious requirements sanctioned by a recognized orthodox rabbinical council.

(2) A person who, with intent to defraud, sells or exposes for sale any meat or meat preparations, article of food or food products, and falsely represents the same to be kosher, whether such meat or meat preparations, article of food or food products are raw or prepared for human consumption, either by direct statement orally, or in writing, which might reasonably be calculated to deceive or lead a reasonable man to believe that a representation is being made that such food is kosher or falsely represents any food products or the contents of any package or container to be so constituted and prepared, by having or permitting to be inscribed thereon the word "kosher" in any language; or sells or exposes for sale in the same place of business both kosher and nonkosher meat or meat preparations, or both kosher and nonkosher food or food products, either raw or prepared for human consumption, and who fails to indicate on his window signs and all display advertising, in block letters at least 4 inches in height, "kosher and nonkosher meat sold here" or "kosher and nonkosher food sold here"; or who exposes for sale in any show window or place of business both kosher and nonkosher meat or meat preparations, or kosher and nonkosher food or food products, either raw or prepared for human consumption, and who fails to display over each kind of meat or meat preparation so exposed a sign in block letters at least 4 inches in height reading "kosher meat" or "nonkosher meat", or "kosher food" or "nonkosher food", or who displays on his window, door or in his place of business, or in handbills or other printed matter distributed in or outside of his place of business, words or letters in Hebraic characters other than the word "kosher", or any sign, emblem, insignia, 6-pointed star, symbol or mark in simulation of same, without displaying in conjunction therewith in English letters of at least the same size as such characters, signs, emblems, insignia, symbols or marks, the words "we sell kosher meat and food only" or "we sell nonkosher meat and food only", or "we sell both kosher and nonkosher meat and food" is guilty of a misdemeanor. Possession of nonkosher meat and food, in any place of business advertising the sale of kosher meat and food only, is presumptive evidence that the person in possession exposes the same for sale with intent to defraud, in violation of the provisions of this section.

(3) A person who, with intent to defraud, sells or exposes for sale in any hotel, restaurant or other place where food products are sold for consumption on or off the premises, any meat or meat preparations, article of food or food products, and falsely represents the same to be kosher, whether such meat or meat preparations, article of food or food products be raw or prepared for human consumption, either by direct statement orally, or in writing, which might reasonably be calculated to deceive or lead a reasonable man to believe that a representation is being made that such food is kosher or falsely represents any food product or the contents of any package or container to be so constituted and prepared, by having or permitting to be inscribed thereon the word "kosher" in any language; or sells or exposes for sale in the same place of business both kosher and nonkosher meat or meat preparations, or both kosher and nonkosher food or food products, either raw or prepared for human consumption, and who fails to indicate on his window signs and all display advertising, in block letters at least 4 inches in height, "kosher and nonkosher food sold here", or who exposes for sale in any show window or place of business both kosher and nonkosher food or food products, either raw or prepared for human consumption, and who fails to display over each kind of food or food preparation so exposed a sign in block letters at least 4 inches in height reading "kosher food" or "nonkosher food", or who displays on his window, door or in his place of business, or in handbills or other printed matter distributed in or outside of his place of business, words or letters in Hebraic characters other than the word "kosher", or any sign, emblem, insignia, 6-pointed star, symbol or mark in simulation of same, without displaying in conjunction therewith in English letters of at least the same size as such characters, signs, emblems, insignia, symbols or marks the words "we sell kosher food only" or "we sell nonkosher food only", or "we sell both kosher and nonkosher food", is guilty of a misdemeanor. Possession of nonkosher food, in any place of business advertising the sale of kosher food only, is presumptive evidence that the person in possession exposes the same for sale with intent to defraud, in violation of the provisions of this section.

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(4) No person shall:

(a) Wilfully mark, stamp, tag, brand, label or in any other way or by any other means of identification represent or cause to be marked, stamped, tagged, branded, labeled or represented as kosher food or food products not kosher or not so prepared.

(b) Wilfully remove, deface, obliterate, cover, alter or destroy, or cause to be removed, defaced, obliterated, covered, altered or destroyed the original slaughterhouse plumba or any other mark, stamp, tag, brand, label or any other means of identification affixed to foods or food products to indicate that such foods or food products are kosher.

(c) Knowingly sell, dispose of or have in his possession, for the purpose of resale to any person as kosher, any food or food products not having affixed thereto the original slaughterhouse plumba or any other mark, stamp, tag, brand, label or other means of identification employed to indicate that such food or food products are kosher or any food or food products to which such plumba, mark, stamp, tag, brand, label or other means of identification has or have been fraudulently affixed.

(5) The department of agriculture shall investigate, inspect and supervise the sale of meat and meat preparations and enforce the provisions of this act. The department may promulgate rules and regulations for the enforcement and administration of this act in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

(6) Any person who violates the provisions of this section is guilty of a misdemeanor.

History: Add. 1966, Act 78, Imd. Eff. June 10, 1966.

750.297f "Halal" defined; prohibited acts; violation as misdemeanor; presumption; additional prohibited acts; investigation and inspection by department of agriculture; rules.

Sec. 297f. (1) As used in this section, "halal" means prepared or processed in accordance with Islamic religious requirements.

(2) A person who, with intent to defraud, does any of the following is guilty of a misdemeanor:

(a) Sells or exposes for sale in any place where food products are sold for consummation on or off the premises any meat, meat preparation, article of food, or food product, and falsely represents it to be halal, whether the meat, or meat preparation, article of food, or food product is raw or prepared for human consumption, either by direct statement orally, or in writing, which is reasonably calculated to deceive or lead a reasonable person to believe that a representation is being made that that food is halal.

(b) Falsely represents any food product or the contents of any package or container to be so constituted and prepared, by having or permitting to be inscribed on the package or container the word "halal" in English.

(c) Exposes for sale in any show window or place of business both halal and nonhalal meat or meat preparations, or halal and nonhalal food or food products, either raw or prepared for human consumption, and who fails to identify each kind of meat or meat preparation as "halal meat" or "halal food".

(d) Displays on his or her window, door, or in his or her place of business, or in handbills or other printed matter distributed inside or outside of his or her place of business, words or letters in Arabic characters other than the word "halal", or any sign, emblem, insignia, symbol, or mark in simulation of same, without also displaying in English letters of at least the same size as such characters, signs, emblems, insignia, symbols, or marks, the words "we sell halal meat and food only" or "we sell nonhalal meat and food only", or "we sell both halal and nonhalal meat and food".

(3) Possession of nonhalal food, in any place of business advertising the sale of halal food only, is presumptive evidence that the person in possession exposes the nonhalal meat and food for sale with intent to defraud.

(4) A person who does any of the following is guilty of a misdemeanor:

(a) Willfully marks, stamps, tags, brands, labels, or in any other way or by any other means of identification represents or causes to be marked, stamped, tagged, branded, labeled, or represented as halal food or food products not halal or not so prepared.

(b) Willfully removes, defaces, obliterates, covers, alters, or destroys, or causes to be removed, defaced, obliterated, covered, altered, or destroyed the original slaughterhouse plumba or any other mark, stamp, tag, brand, label, or any other means of identification affixed to foods or food products to indicate that those foods or food products are halal.

(c) Knowingly sells, disposes of, or has in his or her possession, for the purpose of resale to any person as halal, any food or food products not having affixed to the food or food product the original slaughterhouse plumba or any other mark, stamp, tag, brand, label, or other means of identification employed to indicate that that food or food product is halal or any food or food products to which such plumba, mark, stamp, tag, brand,

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label, or other means of identification has been fraudulently affixed.

(5) The department of agriculture shall investigate and inspect the sale of halal food products and shall enforce this act. The department of agriculture may promulgate rules for the enforcement and administration of this section under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: Add. 2002, Act 207, Imd. Eff. Apr. 29, 2002.

Compiler's note: In subdivision (2)(a), "consummation" evidently should read "consumption."

750.298 Medicine; practicing under false or assumed name.

Sec. 298. Any person who practices medicine or advertises to practice medicine under a false or assumed name, or under a name other than his or her own, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.298;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 291 of 1929, being CL 1929, § 6756.

750.298a Representation of service as under supervision of physician; product or appliance approved by medical profession.

Sec. 298a. If any person, partnership, corporation or enterprise shall offer to furnish any service, product or appliance designed or represented to affect human health, well-being or appearance, and shall advertise, state or represent in any offer, inducement or contract that the rendering of such service will be under the guidance or supervision of a physician, or that such product or appliance has been indorsed or approved by the medical profession, it shall be unlawful for such person, partnership, corporation or enterprise to render such service or cause or permit the same to be rendered except by or under the direct, continuing personal supervision of a physician licensed to practice in Michigan, or to furnish such product or appliance unless the same had, in fact, been indorsed or approved in writing by a bona fide organization of licensed physicians. Any person violating any provisions of this section is guilty of a misdemeanor punishable by a fine not to exceed $1000.00 or imprisonment for not more than 1 year, or both.

History: Add. 1966, Act 302, Eff. Mar. 10, 1967.

750.299 Agricultural seeds; false statement.

Sec. 299. False statements regarding agricultural seeds—Any person or his agent or employe, who, in writing or in a newspaper, circular or other publication published in this state, makes or disseminates any statement or assertion of fact concerning the superior qualifications, quality, value or locality where grown of any agricultural seeds sold or offered for sale in this state, or the possession of rewards, prizes or distinctions conferred on account of such seeds, or the motive or purpose of such sale, intended to give the appearance of an offer advantageous to the purchaser, or as an inducement for the planting of such seeds, which is untrue or calculated to mislead and to induce a person to purchase such seeds, is guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.299.

Former law: See section 1 of Act 176 of 1919, being CL 1929, § 5082.

750.300 Insurance company; killing or injuring animals to defraud.

Sec. 300. Killing or injuring animals with intent to defraud insurance company—Any person who shall injure or kill any horse, mule or other live stock which shall be insured by any insurance company authorized to do business in this state, when such killing or injury shall be with the wilful intent on the part of such person to defraud such insurance company, whether such person shall be the owner of such insured property or not shall be guilty of a felony, punishable by imprisonment for not more than 2 years or by a fine of not more than 1,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.300.

Former law: See section 1 of Act 165 of 1893, being CL 1897, § 11597; CL 1915, § 15352; and CL 1929, § 17001.

750.300a Food stamps or coupons; conduct as crime; course of conduct as one offense; determination of degree; definitions.

Sec. 300a. (1) A person who knowingly uses, transfers, acquires, alters, purchases, possesses, presents for redemption, or transports food stamps or coupons or access devices other than as authorized by the food stamp act of 1977, 7 U.S.C. 2011 to 2030, and the regulations promulgated under that act, or any supplemental food program administered by any department of this state pursuant to section 17 of the child nutrition act of 1966, 42 U.S.C. 1786, and the regulations promulgated under that act, is guilty of a crime as follows:

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(a) Except as otherwise provided in this subdivision, if the aggregate value of the food stamps or coupons or access devices is $250.00 or less, 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. If the person has 1 prior conviction for violating this section, the person is guilty of a felony, and may be punished as provided in subdivision (b). If the person has 2 or more prior convictions for violating this section, the person is guilty of a felony, and may be punished as provided in subdivision (c). The existence of a prior conviction shall be determined by the court at sentencing.

(b) Except as otherwise provided in this subdivision, if the aggregate value of the food stamps or coupons or access devices is more than $250.00 but does not exceed $1,000.00, 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. If the person has 1 or more prior convictions for violating this section, the person is guilty of a felony, and may be punished as provided in subdivision (c). The existence of a prior conviction shall be determined by the court at sentencing.

(c) If the aggregate value of the food stamps or coupons or access devices is more than $1,000.00, the person is guilty of a felony, punishable by imprisonment for not more than 10 years, or a fine of not more than $250,000.00, or both.

(2) If food stamps or coupons or access devices of various values are used, transferred, acquired, altered, purchased, possessed, presented for redemption, or transported in violation of this section over a period of 12 months, the course of conduct may be charged as 1 offense and the values of the food stamps or coupons or access devices aggregated in determining the degree of the offense.

(3) As used in this section:

(a) "Access device" means any card, plate, code, account number, or other means of access that can be used, alone or in conjunction with another access device, to obtain payments, allotments, benefits, money, goods, or other things of value, or that can be used to initiate a transfer of funds pursuant to the food stamp program established under the food stamp act of 1977, 7 U.S.C. 2011 to 2030, or any supplemental food program administered by any department of this state pursuant to section 17 of the child nutrition act of 1966, 42 U.S.C. 1786.

(b) "Aggregate value of the food stamps or coupons or access devices" means the total face value of any food stamps or coupons involved in the violation plus the total value of any access devices involved in the violation. The value of an access device is the total value of the payments, allotments, benefits, money, goods, or other things of value that may be obtained, or the total value of funds that may be transferred, by use of the access device at the time of the violation.

(c) "Food stamps or coupons" means the coupons issued pursuant to the food stamp program established under the food stamp act of 1977, 7 U.S.C. 2011 to 2030, or issued pursuant to any supplemental food program administered by any department of this state pursuant to section 17 of the child nutrition act of 1966, 42 U.S.C. 1786.

History: Add. 1988, Act 387, Eff. Mar. 30, 1989;—Am. 1993, Act 230, Eff. Apr. 1, 1994.

CHAPTER XLIV
GAMBLING

750.301 Accepting money or valuable thing contingent on uncertain event.

Sec. 301. Any person or his or her agent or employee who, directly or indirectly, takes, receives, or accepts from any person any money or valuable thing with the agreement, understanding or allegation that any money or valuable thing will be paid or delivered to any person where the payment or delivery is alleged to be or will be contingent upon the result of any race, contest, or game or upon the happening of any event not known by the parties to be certain, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.301;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 1 and 11 of Act 176 of 1925, being CL 1929, §§ 9121 and 9131.

750.302 Keeping or occupying common gambling house or building or place where gaming permitted; apparatus used for gaming or gambling; manufacture or possession of gaming or gambling apparatus for sale.

Sec. 302. (1) Except as provided in subsection (2), any person, or his or her agent or employee who, directly or indirectly, keeps, occupies, or assists in keeping or occupying any common gambling house or any building or place where gaming is permitted or suffered or who suffers or permits on any premises owned, occupied, or controlled by him or her any apparatus used for gaming or gambling or who shall use such

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apparatus for gaming or gambling in any place within this state, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

(2) This section does not prohibit the manufacture of gaming or gambling apparatus or the possession of gaming or gambling apparatus by the manufacturer of the apparatus solely for sale outside of this state, or for sale to a gambling establishment operating within this state in compliance with the laws of this state, if applicable, and in compliance with the laws of the United States, provided the manufacturer meets or exceeds federal government requirements in regard to manufacture, storage, and transportation.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.302;—Am. 1989, Act 85, Imd. Eff. June 20, 1989;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 2 and 11 of Act 176 of 1925, being CL 1929, §§ 9122 and 9131.

750.303 Keeping or maintaining gaming room, gaming table, or game of skill or chance for hire, gain, or reward; accessory; applicability of subsection (1) to mechanical amusement device, slot machine, or crane game; "slot machine" and "crane game" defined; notice.

Sec. 303. (1) Except as otherwise provided in this section, a person who for hire, gain, or reward, keeps or maintains a gaming room, gaming table, game of skill or chance, or game partly of skill and partly of chance, used for gaming, or who permits a gaming room, or gaming table, or game to be kept, maintained, or played on premises occupied or controlled by the person, is guilty of a misdemeanor, punishable by imprisonment for not more than 2 years, or a fine of not more than $1,000.00. A person who aids, assists, or abets in the keeping or maintaining of a gaming room, gaming table, or game, is guilty of a misdemeanor, punishable by imprisonment for not more than 2 years, or a fine of not more than $1,000.00.

(2) Subsection (1) does not apply to a mechanical amusement device which may, through the application of an element of skill, reward the player with the right to replay the mechanical amusement device at no additional cost if the mechanical amusement device is not allowed to accumulate more than 15 replays at 1 time; the mechanical amusement device is designed so that accumulated free replays may only be discharged by reactivating the device for 1 additional play for each accumulated free replay; and the mechanical amusement device makes no permanent record, directly or indirectly, of the free replays awarded.

(3) Subsection (1) does not apply to a slot machine if the slot machine is 25 years old or older and is not used for gambling purposes. As used in this section, "slot machine" means a mechanical device, an essential part of which is a drum or reel which bears an insignia and which when operated may deliver, as a result of the application of an element of chance, a token or money or property, or by operation of which a person may become entitled to receive, as a result of the application of an element of chance, a token or money or property.

(4) A slot machine which is being used for a gambling purpose in violation of subsection (3) shall be confiscated and turned over to the director of the department of state police for auction.

(5) Subsection (1) does not apply to a crane game. As used in this section, "crane game" means an amusement machine activated by the insertion of a coin by which the player uses 1 or more buttons, joysticks, or similar means of control, or a combination of those means of control, to position a mechanical or electromechanical claw, or other retrieval device, over a prize, toy, novelty, or an edible item having a wholesale value of not more than $3.75, and thereby attempts to retrieve the prize, toy, novelty, or edible item. Every prize, toy, or edible item must be retrievable by the claw. A slot machine is not considered a crane game.

(6) A person who knowingly alters a crane game that is available for play so that the crane game is not in compliance with the elements of the definition contained in subsection (5) is guilty of a felony, punishable by imprisonment for not more than 2 years, or a fine of not more than $20,000.00, or both.

(7) A law enforcement officer may confiscate any crane game that is available for play and is not in compliance with the elements of the definition contained in subsection (5). The confiscated crane games and their contents shall not be destroyed, altered, dismantled, sold, or otherwise disposed of except upon order of a court having competent jurisdiction.

(8) The following notice shall be conspicuously posted on the front of every crane game located in this state: "This game is not licensed or regulated by the state of Michigan."

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.303;—Am. 1975, Act 315, Imd. Eff. Dec. 22, 1975;—Am. 1979, Act 43, Imd. Eff. July 2, 1979;—Am. 1988, Act 464, Imd. Eff. Dec. 27, 1988;—Am. 1990, Act 130, Imd. Eff. June 26, 1990;—Am. 1996, Act 129, Imd. Eff. Mar. 13, 1996.

Constitutionality: The provision of the Penal Code which exempts from the statutory proscription of gaming devices mechanical amusement devices which, through application of an element of skill, reward a player with free replays of the device, and which do not allow more than fifteen replays or the discharge of free replays without actually being played or keep a permanent record of the replays awarded is not unconstitutionally vague. Automatic Music and Vending Corporation v. Liquor Control Commission, 426 Mich. 452, 396

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N.W.2d 204 (1986).

Former law: See section 15 of Ch. 43 of R.S. 1846, being CL 1857, § 1588; CL 1871, § 1998; How., § 2029; CL 1897, § 5935; CL 1915, § 7801; CL 1929, § 9117; and Act 171 of 1877.

750.303a Applicability of chapter; recreational card playing conducted at senior citizen housing facility.

Sec. 303a. This chapter does not apply to recreational card playing conducted at a senior citizen housing facility not licensed by the liquor control commission by a senior citizens club or a group of residents of a senior citizen housing facility that consists of at least 15 members who are 60 years of age or older under all of the following circumstances:

(a) The card playing is conducted solely for the amusement and recreation of the members and guests of the club or group and is not conducted for fund-raising. The number of guests participating in the card playing shall not exceed the number of club or group members participating in the card playing.

(b) Only bona fide members and employees of the club or group participate in the conduct of the activity.

(c) The card playing is conducted after 9 a.m. and before midnight.

(d) The participating cardplayers bet not more than 25 cents per bet.

(e) The winnings from 1 hand of cards do not exceed $5.00.

(f) Except for winnings, revenue generated from the activity is used for reasonable expenses incurred in conducting the card playing, and no person is compensated for participating in the conduct of the card playing.

History: Add. 1996, Act 539, Imd. Eff. Jan. 14, 1997.

750.304 Selling pools and registering bets.

Sec. 304. Any person or his or her agent or employee who, directly or indirectly, keeps, maintains, operates, or occupies any building or room or any part of a building or room or any place with apparatus, books, or any device for registering bets or buying or selling pools upon the result of a trial or contest of skill, speed or endurance or upon the result of a game, competition, political nomination, appointment, or election or any purported event of like character or who registers bets or buys or sells pools, or who is concerned in buying or selling pools or who knowingly permits any grounds or premises, owned, occupied, or controlled by him or her to be used for any of the purposes aforesaid, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.304;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 3 and 11 of Act 176 of 1925, being CL 1929, §§ 9123 and 9131.

750.305 Publication or distribution of betting odds; penalty.

Sec. 305. (1) Any person, or his or her agent or employee who, directly or indirectly, by means of any newspaper, periodical, poster, notice, or other mode of publication or reproduction, writes, prints, publishes, advertises, delivers, or distributes or offers to deliver or distribute to the public or to any part thereof or to any person, any statement or information concerning the making or laying of wagers or bets or the selling of pools or evidences of betting odds on any contest or game or on the happening of any event not known by the parties to be certain, or any purported event of like character, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

(2) The acts prohibited in subsection (1) constitute violations of subsection (1) when committed before any game, contest, or event. The possession of evidence for the publication of any statement or information concerning the making or laying of wagers or bets or the selling of pools or betting odds also constitutes a violation of subsection (1) when possessed for publication before the act evidenced thereby.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.305;—Am. 1959, Act 229, Eff. Mar. 19, 1960;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 4 and 11 of Act 176 of 1925, being §§ 9124 and 9131.

750.305a Racing results; unlawful use of teletype ticker, exceptions; prima facie evidence; penalties.

Sec. 305a. It shall be unlawful for any corporation, association, firm, co-partnership or person, either directly, or indirectly, or by or through any agent or employee, to lease, loan, sell, assign or in any way cause to be furnished any machine, device or instrumentality, excluding the telephone, and including but not limited to the device commonly referred to as a teletype ticker, registering or recording by any words, figures, signs, characters or hieroglyphics information concerning and the results of racing as defined in section 331 of Act No. 328 of the Public Acts of 1931, being section 750.331 of the Compiled Laws of 1948, or any statement or

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information concerning the making or laying of wagers, or bets, or the selling of pools or evidences of betting odds on any such race, to any person, firm, association, co-partnership or corporation, directly, indirectly or otherwise, or to their agents or employees within this state; and it shall likewise be unlawful for any corporation, association, firm, co-partnership or person, either directly or indirectly, or by or through any agent or employee, to transmit, convey or otherwise cause to be transmitted or conveyed through facilities owned, operated, leased by, serviced by, or otherwise under the control of such corporation, association, firm, co-partnership or person, such information to a teletype ticker or other device or instrumentality recording the same within this state; and it shall likewise be unlawful for any corporation, association, firm, co-partnership or person to string wires or other means of transmitting such information to such device or instrumentality within this state, used for recording such information, or to maintain, service, repair, lease, rent or install such communication lines and such recording devices or instrumentalities to, in and upon any premises in this state: Provided, however, That the provisions hereof shall not apply to the transmission and recording of such information to bona fide newspapers, having a general circulation and carrying principally local, sports, or national news of general interest and shall not apply to duly licensed radio and television stations or to press associations for distribution to such newspapers, radio or television stations nor to the use of totalizers and mechanical devices legally used, under the provisions of section 13, Act No. 199, Public Acts of 1933 as amended, being section 431.13 of the Compiled Laws of 1948, it being the intention of this section to make unlawful the transmission of such information and the furnishing and maintenance of facilities for the receipt and recordation of such information to so-called hand-books, bookies, pool rooms and to any and all other agencies within this state for illegal gambling purposes. The presence of a so-called teletype ticker machine or other device or instrumentality for recording such information and the presence of wires installed for the transmitting of such information in, upon and to any premises within this state other than hereinbefore excepted is hereby declared to be prima facie evidence of the criminal intent of the person, firm, association, co-partnership or corporation and its agents and employees, lending, leasing, renting, conveying, supplying, servicing or otherwise maintaining said wires, devices or instrumentalities: Provided, however, That said presumption of criminal intent shall be rebutted if the corporation, association, firm, co-partnership, person, agent, or employee, furnishing, maintaining, servicing, or installing such device or facilities or transmitting such information, prior to the issuance of a warrant for the violation of this section, shall have notified the prosecuting attorney of the county where the violation is alleged to have occurred in writing that such device and facilities may be used for unlawful and illegal purposes. Any person, co-partnership, firm, association or corporation and any agent and employee thereof who shall, directly or indirectly, do or cause to be done any act or acts hereinbefore declared to be unlawful shall be guilty of a misdemeanor punishable by imprisonment in the state prison for not more than 2 years or by a fine of $5,000.00, or both fine and imprisonment: Provided, however, That no public utility corporation engaged in the distribution and selling of electrical energy shall be deemed to be in violation of this act by reason of its sale of electrical energy to a telephone or telegraph company, or by reason of its permitting its poles or conduits to be occupied by the wires and cables of a telephone or telegraph company.

History: Add. 1952, Act 199, Eff. Sept. 18, 1952.

750.306 Pool tickets; declaration as nuisance.

Sec. 306. (1) All policy or pool tickets, slips or checks, memoranda of any combination, or other bet, manifold, or other policy or pool books or sheets are hereby declared a common nuisance and the possession of 1 or more of those items is a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

(2) The possession of articles listed in subsection (1), or of any other implements, apparatus, or materials of any other form of gaming, is prima facie evidence of their use, by the person having them in possession, in the form of gaming in which like articles are commonly used. And such article found upon the person of one lawfully arrested for violation of any law relative to lotteries, policy lotteries or policy, the buying or selling of pools or registering of bets or other form of gaming is competent evidence upon the trial of an indictment to which it may be relevant.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.306;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 5 and 11 of Act 176 of 1925, being CL 1929, §§ 9125 and 9131.

750.307 Gambling; prima facie evidence.

Sec. 307. Prima facie evidence—In a prosecution or proceeding relative to lotteries, policy lotteries or policy, buying and selling pools or registering bets, any words, figures or characters, written, printed or exposed upon a blackboard, placard or otherwise in a place alleged to be used or occupied for such business, purporting or appearing to be a name of a horse or jockey, or a description of or reference to a trial or contest

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of skill, speed or endurance of man, beast, bird or machine, or game, competition, political nomination, appointment or election, or other act or event, or any odds, bet, combination bet or other stake or wager, or any code, cipher or substitute therefor, shall be prima facie evidence of the existence of the race, game, contest or other act or event so purporting or appearing to be referred to, and that such place is kept or occupied for gaming; and in all cases a copy or oral description thereof shall be competent evidence of the same.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.307.

Former law: See section 6 of Act 176 of 1925, being CL 1929, § 9126.

750.308 Gaming house; search warrant; seizure of apparatus and material; arrest.

Sec. 308. If a person makes oath before a judge that he or she has probable cause to believe and does believe that a house or other building, room, or place is used as and for a common gaming house, for gaming for money or other property, or is occupied, used, or kept for promoting a lottery, or for the sale of lottery tickets, or for promoting the game known as a policy lottery or policy, or for the buying or selling of pools or registering of bets upon any race, game, contest, act, or event, and that persons resort thereto for any such purpose, the judge, whether the names of the persons last mentioned are known to the complainant or not, shall, if he or she be satisfied there is reasonable cause for such belief, issue a warrant commanding the sheriff or deputy sheriff or any constable or police officer to enter and search such house, building, room, or place, and if any lottery, policy or pool tickets, slips, checks, manifold books or sheets, memoranda of any bet, or other implements, apparatus, or material of any form of gaming be found in the place, to take into his or her custody all the implements, apparatus, or material of gaming, including any articles, equipment, furniture, loud speakers and amplifying apparatus, adding machines, calculators, money changers and boxes, and money found therein or in or on gambling apparatus, or material used in connection with or the promotion of gambling or a gambling place; and upon the finding of such apparatus and material of any form of gaming, the officers shall be authorized to arrest the keepers of the place, all persons in any way assisting in keeping the same, whether as capper, tout, guard, doorkeep, lookout, or otherwise, and all persons who are there found, and to keep the persons, implements, apparatus, or material of gaming, including any punch board prizes, articles, equipment, furniture, loud speakers and amplifying apparatus, adding machines, calculators, money changers and boxes, and money found therein or in or on gambling apparatus, or material used in connection with or the promotion of gambling or a gambling place, so that they may be forthcoming before some court or magistrate to be dealt with according to law. The provisions of law relative to destroying or other disposition of gaming articles shall apply to all articles and property seized as herein provided.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1941, Act 25, Eff. Jan. 10, 1942;—CL 1948, 750.308;—Am. 1953, Act 64, Eff. Oct. 2, 1953;—Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991.

Former law: See section 7 of Act 176 of 1925, being CL 1929, § 9127.

750.308a Disposition of articles or property seized.

Sec. 308a. On application of a sheriff, chief of police of a police department, commissioner of the Michigan state police, or other peace officer, a court or magistrate of competent jurisdiction may upon due notice and hearing turn over to said sheriff, chief of a police department, commissioner of the Michigan state police, or peace officer, any articles or property listed under the provisions of section 308 of this chapter lawfully seized by any such peace officer for such disposition as the court or magistrate shall prescribe, or said court or magistrate may provide for the destruction or other disposition of said articles or property.

Any funds derived from the disposition of any such articles or property shall be turned over to the treasurer of the city, township or county whose law enforcement officer made application for the disposition of such articles or property, or to the state treasurer if such application is made by the commissioner of the Michigan state police.

History: Add. 1953, Act 64, Eff. Oct. 2, 1953.

750.309 Frequenting or attending gaming places.

Sec. 309. Frequenting or attending gaming places—Any person who shall attend or frequent any place where gaming or gambling is suffered or permitted, or any place operated or occupied as a common gaming or gambling house or room, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.309.

Former law: See section 10 of Act 176 of 1925, being CL 1929, § 9129.

750.310 Exceptions.

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Sec. 310. This chapter shall not be construed to prohibit or make unlawful the operation of a game of skill or chance pursuant to the Michigan Exposition and Fairgrounds Act or the giving or payment of purses, prizes, or premiums to players in a game or participants in a contest or to the owner, driver, manager, or trainer of animals or the drivers, mechanics, or operators of a machine or the giving or payment of entry fees or the payment of expenses or reward for services or labor in connection with a race, contest, or game but it shall apply to the selling of pools or to a transaction whereby money or a valuable thing shall be paid as a gain or speculation on the result of a contest, race, game, or event not known to the parties to be certain and concerning which the parties to the transaction do not render service directly related to the holding of the contest, race, or game or the bringing about of the event.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.310;—Am. 1978, Act 356, Eff. July 22, 1978.

Former law: See section 8 of Act 176 of 1925, being CL 1929, § 9128.

750.310a Applicability of chapter; bowling game or bowling card game.

Sec. 310a. (1) Subject to subsection (3), this chapter does not apply to a bowling game or a bowling card game conducted in a bowling center to which all of the following apply:

(a) The total amount of the participation fee per person per game does not exceed $5.00.

(b) The total prize payout per league per game does not exceed $1,000.00 and is comprised only of participation fees.

(2) This section applies only to a game that is sponsored solely by 1 league and whose participants are members of the same league.

(3) The bowling center in which the bowling game or bowling card game is conducted shall not receive a percentage of the participation fees or prize money from bowling games or bowling card games for which a stake or prize is awarded.

(4) As used in this section:

(a) "Bowling center" means a bowling alley with a minimum of 5 lanes.

(b) "Bowling card game" means a card game held in conjunction with a bowling game, the results of which depend on the outcome of the bowling game. Bowling card game does not include any of the following:

(*i*) A mechanical or electronic simulation of a bowling card game.

(*ii*) Roulette, beano, cards unless used in a bowling card game, dice, wheels of fortune, video poker, slot machines, or other similar games in which winning depends primarily upon fortuitous or accidental circumstances beyond the control of the player.

(*iii*) A game that includes a mechanical or physical device that directly or indirectly impairs or thwarts the skill of the player.

(c) "Bowling game" means not more than 3 sets of 10 frames of bowling. Bowling game does not include any of the following:

(*i*) A mechanical or electronic simulation of a bowling game.

(*ii*) Roulette, beano, cards unless used in a bowling card game, dice, wheels of fortune, video poker, slot machines, or other similar games in which winning depends primarily upon fortuitous or accidental circumstances beyond the control of the player.

(*iii*) A game that includes a mechanical or physical device that directly or indirectly impairs or thwarts the skill of the player.

(d) "Participation fee" means a fee that is charged by the league to a participant in a game for which a stake or prize is awarded.

History: Add. 1996, Act 539, Imd. Eff. Jan. 14, 1997;—Am. 1998, Act 338, Imd. Eff. Sept. 30, 1998.

750.310b Applicability of chapter; redemption.

Sec. 310b. (1) This chapter does not apply to a redemption game if all of the following conditions are met:

(a) The outcome of the game is determined through the application of an element of skill by the player.

(b) The award of the prize is based upon the player's achieving the object of the game or otherwise upon the player's score.

(c) Only noncash prizes, toys, novelties, or coupons or other representations of value redeemable for noncash prizes, toys, or novelties are awarded.

(d) The wholesale value of a prize, toy, or novelty awarded for the successful single play of a game is not more than $3.75.

(e) The redemption value of coupons or other representations of value awarded for the successful single play of a game does not exceed 15 times the amount charged for a single play of the game or $3.75, whichever is less. However, players may accumulate coupons or other representations of value for redemption for noncash prizes, toys, or novelties of a greater value up to, but not exceeding, $250.00 wholesale value.

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(2) As used in this section, "redemption game" means a single player or multi-player mechanical, electronic, or manual amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, propelling, or stopping a ball or other object into, upon, or against a hole or other target. Redemption game does not include either of the following:

(a) Games such as roulette, beano, cards, dice, wheels of fortune, video poker, slot machines, or other games in which winning depends primarily upon fortuitous or accidental circumstances beyond the control of the player.

(b) A game that includes a mechanical or physical device which directly or indirectly impairs or thwarts the skill of the player.

History: Add. 1996, Act 539, Imd. Eff. Jan. 14, 1997.

750.311 Gambling in stocks, bonds, grain or produce.

Sec. 311. Gambling in stocks, bonds, grain, etc.—It shall be unlawful for any corporation, association, firm, copartnership or person to keep or cause to be kept by any agent or employe within this state, any office, store or other place, wherein is conducted or permitted the pretended buying or selling of the shares of stocks or bonds of any corporation, or petroleum, cotton, grain, provisions or other produce, either on margins or otherwise, without any intention of receiving and paying for the property so bought or of delivering the property so sold; or wherein is conducted or permitted the pretended buying or selling of such property on margins, when the party selling the same or offering to sell the same does not have the property on hand to deliver upon such sale; or when the party buying any of such property, or offering to buy the same, does not intend actually to receive the same if purchased or to deliver the same if sold; all such acts and all purchases and sales, or contracts and agreements for the purchase and sale of any of the property aforesaid in manner aforesaid, and all offers to sell the same or to purchase the same in manner aforesaid, as well as all transactions in stocks, bonds, petroleum, cotton, grains or provisions in the manner as aforesaid, on margins for future or optional delivery, are hereby declared gambling and criminal acts, whether the person buying or selling or offering to buy or sell acts for himself or as an agent, employe or broker for any firm, copartnership, company, corporation, association or broker's office.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.311.

Former law: See section 1 of Act 199 of 1887, being How., § 9354f; CL 1897, § 11373; CL 1915, § 15091; CL 1929, § 16618; and sections 1 and 2 of Act 336 of 1907, being CL 1915, §§ 7805 and 7806; and CL 1929, §§ 9133 and 9134.

750.312 Commission merchants, statements on demand.

Sec. 312. Commission merchants, etc., to furnish written statement, etc., on demand—It shall be the duty of every commission merchant, firm, copartnership, association, corporation or broker doing business as such, to furnish upon demand, to any customer or principal for whom such commission merchant, broker, firm, copartnership, corporation or association has executed any order for the actual purchase or sale of any of the commodities mentioned in the next preceding section of this chapter either for immediate or future delivery, a written statement containing the names of the parties from whom any such property was bought or to whom it shall have been sold, as the case may be, the time when, the place where and the price at which the same was either bought or sold; and in case such commission merchant, broker, firm, copartnership, corporation or association shall refuse promptly to furnish such statement upon reasonable demand, the fact of such refusal shall be prima facie evidence that such property was not sold or bought in legitimate manner upon the open market.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.312.

Former law: See section 2 of Act 199 of 1887, being How., § 9354g; CL 1897, § 11374; CL 1915, § 15092; CL 1929, § 16619; and section 4 of Act 336 of 1907, being CL 1915, § 7808; and CL 1929, § 9136.

750.313 Gambling in stocks, bonds, grain or produce; penalty.

Sec. 313. Penalty for gambling and using property for gambling in stocks, bonds, grain, etc.—Any person who shall knowingly permit any of the acts set forth in the eleventh section of this chapter in his building, house or in any out-house, booth, arbor or erection of which he has the title, care or possession, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 2 years or by a fine of not less than 500 dollars or more than 1,000 dollars, and any penalty so adjudged shall be a lien upon the premises on or in which such unlawful acts are carried on or permitted, and any person whether acting for himself, or as a broker, agent or employe of any person, or as an officer, broker, agent or employe of any corporation, association, firm or co-partnership, who shall violate any of the provisions of the eleventh section of this chapter, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 2 years, or by fine of not less than 500 dollars nor more than 1,000 dollars.

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History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.313.

Former law: See section 3 of Act 199 of 1887, being How., § 9354h; CL 1897, § 11375; CL 1915, § 15093; and CL 1929, § 16620.

750.314 Winning at gambling.

Sec. 314. Any person who by playing at cards, dice, or any other game, or by betting or putting up money on cards, or by any other means or device in the nature of betting on cards, or betting of any kind, wins or obtains any sum of money or any goods, or any article of value whatever, is guilty of a misdemeanor if the money, goods, or articles so won or obtained are of the value of not more than $50.00. If the money, goods, or articles so won or obtained are of the value of more than $50.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.314;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 9 of Ch. 43 of R.S. 1846, being CL 1857, § 1582; CL 1871, § 1992; How., § 2023; CL 1897, § 5929; CL 1915, § 7795; CL 1929, § 9111; and Act 171 of 1877.

750.315 Losing at gambling.

Sec. 315. Losing at gambling—Any person who shall lose any sum of money, or any goods, article or thing of value, by playing or betting on cards, dice or by any other device in the nature of such playing or betting, and shall pay or deliver the same or any part thereof to the winner, and shall not, within 3 months after such loss, without covin or collusion, prosecute with effect for such money or goods, the winner to whom such money or goods shall have been so paid or delivered, shall be guilty of a misdemeanor, punishable by a fine not exceeding 3 times the value of such money or goods. Such loser may sue for and recover such money in an action for money had and received to the use of the plaintiff; and such goods, article or valuable thing in an action of replevin, or the value thereof in an action on the case.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.315.

Former law: See sections 9 and 10 of Ch. 43 of R.S. 1846, being CL 1857, §§ 1582 and 1583; CL 1871, §§ 1992 and 1993; How., §§ 2023 and 2024; CL 1897, §§ 5929 and 5930; CL 1915, §§ 7795 and 7796; and CL 1929, §§ 9111 and 9112.

750.315a Savings promotion raffle.

Sec. 315a. This chapter does not apply to a savings promotion raffle conducted by a domestic credit union pursuant to section 411 of the credit union act or to a savings promotion raffle conducted by a federally chartered credit union, a state or nationally chartered bank, or a state or federally chartered savings and loan association that is conducted in the same manner as a raffle conducted by a domestic credit union under section 411 of the credit union act.

History: Add. 1982, Act 395, Eff. Mar. 30, 1983;—Am. 2003, Act 217, Imd. Eff. Dec. 2, 2003.

CHAPTER XLV
HOMICIDE

750.316 First degree murder; penalty; definitions.

Sec. 316. (1) A person who commits any of the following is guilty of first degree murder and shall be punished by imprisonment for life:

(a) Murder perpetrated by means of poison, lying in wait, or any other willful, deliberate, and premeditated killing.

(b) Murder committed in the perpetration of, or attempt to perpetrate, arson, criminal sexual conduct in the first, second, or third degree, child abuse in the first degree, a major controlled substance offense, robbery, carjacking, breaking and entering of a dwelling, home invasion in the first or second degree, larceny of any kind, extortion, kidnapping, or vulnerable adult abuse in the first and second degree under section 145n.

(c) A murder of a peace officer or a corrections officer committed while the peace officer or corrections officer is lawfully engaged in the performance of any of his or her duties as a peace officer or corrections officer, knowing that the peace officer or corrections officer is a peace officer or corrections officer engaged in the performance of his or her duty as a peace officer or corrections officer.

(2) As used in this section:

(a) "Arson" means a felony violation of chapter X.

(b) "Corrections officer" means any of the following:

(*i*) A prison or jail guard or other prison or jail personnel.

(*ii*) Any of the personnel of a boot camp, special alternative incarceration unit, or other minimum security correctional facility.

(*iii*) A parole or probation officer.

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(c) "Major controlled substance offense" means any of the following:
(*i*) A violation of section 7401(2)(a)(*i*) to (*iii*) of the public health code, 1978 PA 368, MCL 333.7401.
(*ii*) A violation of section 7403(2)(a)(*i*) to (*iii*) of the public health code, 1978 PA 368, MCL 333.7403.
(*iii*) A conspiracy to commit an offense listed in subparagraph (*i*) or (*ii*).
(d) "Peace officer" means any of the following:
(*i*) A police or conservation officer of this state or a political subdivision of this state.
(*ii*) A police or conservation officer of the United States.
(*iii*) A police or conservation officer of another state or a political subdivision of another state.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.316;—Am. 1969, Act 331, Eff. Mar. 20, 1970;—Am. 1980, Act 28, Imd. Eff. Mar. 7, 1980;—Am. 1994, Act 267, Eff. Oct. 1, 1994;—Am. 1996, Act 20, Eff. Apr. 1, 1996;—Am. 1996, Act 21, Eff. Apr. 1, 1996;—Am. 1999, Act 189, Eff. Apr. 1, 2000;—Am. 2004, Act 58, Eff. June 11, 2004.

Constitutionality: This section, which provides a mandatory life sentence for first degree murder, does not violate constitutional guarantees of due process and equal protection or the guarantee against cruel and unusual punishment. People v. Hall, 396 Mich. 650, 242 N.W.2d 377 (1976).

The use of common-law definition of rape in this section, until it was amended by Act No. 28 of the Public Acts of 1980, does not violate the equal protection clause. People v. McDonald, 409 Mich. 110, 293 N.W.2d 588 (1980).

In People v. Gay, 407 Mich. 681, 289 N.W.2d 651 (1980), the Michigan supreme court held that the prosecution of defendants under this section subsequent to their convictions in federal court for the same acts is limited by the double jeopardy clause of the Michigan constitution.

In People v. Wilder, 411 Mich. 328, 308 N.W.2d 112 (1981), the Michigan supreme court held that conviction and sentence for both first-degree felony murder and the underlying felony of armed robbery violates the state constitutional prohibition against double jeopardy.

A mandatory life sentence imposed for conspiracy to commit first-degree, even if nonparolable, is not so excessive as to constitute cruel and unusual punishment; nor does it violate the Equal Protection Clauses of the Michigan and United States Constitutions. People v. Fernandez, 427 Mich. 321, 398 N.W.2d 311 (1986).

Former law: See section 1 of Ch. 153 of R.S. 1846, being CL 1857, § 5711; CL 1871, § 7510; How., § 9075; CL 1897, § 11470; CL 1915, § 15192; and CL 1929, § 16708.

750.317 Second degree murder; penalty.

Sec. 317. Second degree murder—All other kinds of murder shall be murder of the second degree, and shall be punished by imprisonment in the state prison for life, or any term of years, in the discretion of the court trying the same.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.317.

Former law: See section 2 of Ch. 153 of R.S. 1846, being CL 1857, § 5712; CL 1871, § 7511; How., § 9076; CL 1897, § 11471; CL 1915, § 15193; and CL 1929, § 16709.

750.318 Degree of murder; determination; testimony, open court, transcript.

Sec. 318. The jury before whom any person indicted for murder shall be tried shall, if they find such person guilty thereof, ascertain in their verdict, whether it be murder of the first or second degree; but, if such person shall be convicted by confession, the court shall proceed by examination of witnesses to determine the degree of the crime, and shall render judgment accordingly. All testimony taken at such examination shall be taken in open court and a typewritten transcript or copy thereof, certified by the court reporter taking the same, shall be placed in the file of the case in the office of the county clerk.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1947, Act 295, Eff. Oct. 11, 1947;—CL 1948, 750.318.

Former law: See section 3 of Ch. 153 of R.S. 1846, being CL 1857, § 5713; CL 1871, § 7512; How., § 9077; CL 1897, § 11472; CL 1915, § 15194; and CL 1929, § 16710.

750.319 Death as result of fighting duel.

Sec. 319. Death as result of fighting a duel—Any person, being an inhabitant or resident of this state, who shall, by previous appointment or engagement made within the same, fight a duel without the jurisdiction of this state, or who shall fight a duel within this state, and in so doing shall inflict a mortal wound upon any person, whereof the person so injured shall afterwards die within this state, shall be guilty of murder of the first degree within this state, and may be indicted, tried and convicted in the county where such death shall happen.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.319.

Former law: See section 4 of Ch. 153 of R.S. 1846, being CL 1857, § 5714; CL 1871, § 7513; How., § 9078; CL 1897, § 11473; CL 1915, § 15195; and CL 1929, § 16711.

750.320 Seconds in duels resulting in death.

Sec. 320. Seconds in duels resulting in death—Any person, being an inhabitant or resident of this state, who shall be the second of either party in such duel as is mentioned in the next preceding section, and shall be

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present as a second when such mortal wound is inflicted, whereof death shall ensue within this state, shall be deemed to be an accessory before the fact to the crime of murder in this state, and may be indicted, tried and convicted in the county where the death shall happen, or in which such wound shall have been inflicted.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.320.

Former law: See section 5 of Ch. 153 of R.S. 1846, being CL 1857, § 5715; CL 1871, § 7514; How., § 9079; CL 1897, § 11474; CL 1915, § 15196; and CL 1929, § 16712.

750.321 Manslaughter.

Sec. 321. Manslaughter—Any person who shall commit the crime of manslaughter shall be guilty of a felony punishable by imprisonment in the state prison, not more than 15 years or by fine of not more than 7,500 dollars, or both, at the discretion of the court.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.321.

Former law: See section 10 of Ch. 153 of R.S. 1846, being CL 1857, § 5720; CL 1871, § 7519; How., § 9084; CL 1897, § 11479; CL 1915, § 15201; and CL 1929, § 16717.

750.322 Manslaughter; wilful killing of unborn quick child.

Sec. 322. Wilful killing of unborn quick child—The wilful killing of an unborn quick child by any injury to the mother of such child, which would be murder if it resulted in the death of such mother, shall be deemed manslaughter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.322.

Former law: See section 32 of Ch. 153 of R.S. 1846, being CL 1857, § 5742; CL 1871, § 7541; How., § 9106; CL 1897, § 11501; CL 1915, § 15223; and CL 1929, § 16739.

750.323 Manslaughter; death of quick child or mother from use of medicine or instrument.

Sec. 323. Death of quick child or mother from use of medicine, etc., with intent to destroy such child—Any person who shall administer to any woman pregnant with a quick child any medicine, drug or substance whatever, or shall use or employ any instrument or other means, with intent thereby to destroy such child, unless the same shall have been necessary to preserve the life of such mother, shall, in case the death of such child or of such mother be thereby produced, be guilty of manslaughter.

In any prosecution under this section, it shall not be necessary for the prosecution to prove that no such necessity existed.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.323.

Former law: See section 33 of Ch. 153 of R.S. 1846, being CL 1857, § 5743; CL 1871, § 7542; How., § 9107; CL 1897, § 11502; CL 1915, § 15224; and CL 1929, § 16740.

750.324 Negligent homicide; penalty.

Sec. 324. Any person who, by the operation of any vehicle upon any highway or upon any other property, public or private, at an immoderate rate of speed or in a careless, reckless or negligent manner, but not wilfully or wantonly, shall cause the death of another, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years or by a fine of not more than $2,000.00, or by both such fine and imprisonment.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1947, Act 162, Eff. Oct. 11, 1947;—CL 1948, 750.324;—Am. 1965, Act 38, Eff. Mar. 31, 1966.

Former law: See section 1 of Act 98 of 1921, being CL 1929, § 16743.

750.325 Negligent homicide; manslaughter where due to operation of motor vehicle.

Sec. 325. The crime of negligent homicide shall be deemed to be included within every crime of manslaughter charged to have been committed in the operation of any vehicle, and in any case where a defendant is charged with manslaughter committed in the operation of any vehicle, if the jury shall find the defendant not guilty of the crime of manslaughter, it may render a verdict of guilty of negligent homicide.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.325;—Am. 1965, Act 38, Eff. Mar. 31, 1966.

Former law: See section 2 of Act 98 of 1921, being CL 1929, § 16744.

750.326 Immoderate speed not dependent on legal speed.

Sec. 326. Immoderate speed not dependent on legal rate of speed—In any prosecution under the 2 next preceding sections, whether the defendant was driving at an immoderate rate of speed shall not depend upon the rate of speed fixed by law for operating such vehicle.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.326.

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Former law: See section 3 of Act 98 of 1921, being CL 1929, § 16745.

750.327 Death due to explosives.

Sec. 327. Death due to explosives—No person shall order, send, take or carry, or attempt to order, send, take or carry dynamite, nitro-glycerine or any other explosive substance which explodes by concussion or friction, concealed in any bag, satchel, valise, trunk, box or in any other manner, either as freight or baggage, on any passenger boat or vessel, or any railroad car or train of cars, street car, motor bus, stage or other vehicle used wholly or partly for carrying passengers.

In case any person violates any of the provisions of this section, he, and any consignee to whom any such dynamite, nitro-glycerine, or other explosive substance has been consigned by his procurement in violation of any of the provisions hereof, shall be guilty of a felony, punishable by imprisonment in the state prison for life or any term of years, in case such dynamite, nitro-glycerine or other explosive substance explodes and destroys human life while in possession of any carrier or on any boat, vessel, railroad car, street car, motor bus, stage or other vehicle contrary to any of the provisions hereof.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.327.

750.327a Sale of explosives to minors.

Sec. 327a. A person who sells or furnishes to a minor, without first having procured the written consent of the parent or guardian of the minor, any bulk gunpowder, dynamite, blasting caps or nitroglycerine is guilty of a misdemeanor.

History: Add. 1961, Act 12, Eff. Sept. 8, 1961;—Am. 1972, Act 32, Imd. Eff. Feb. 19, 1972.

750.328 Death due to explosives; placed with intent to destroy building or object.

Sec. 328. Death from explosives placed with intent to destroy, etc., building or object—Any person who with intent to destroy, throw down or injure the whole or any part of any building or object, places or causes to be placed in, upon, under, against or near such building or object any gun powder or other explosive substance which upon explosion causes the death of any person, shall be guilty of a felony, punishable by imprisonment in the state prison for life or any term of years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.328.

750.329 Death; firearm pointed intentionally, but without malice.

Sec. 329. Death from wound, etc., from firearm pointed intentionally, but without malice—Any person who shall wound, maim or injure any other person by the discharge of any firearm, pointed or aimed, intentionally but without malice, at any such person, shall, if death ensue from such wounding, maiming or injury, be deemed guilty of the crime of manslaughter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.329.

750.329a Intent to assist individual in suicide; prohibited conduct; felony; exception; effect of common law offense.

Sec. 329a. (1) A person who knows that an individual intends to kill himself or herself and does any of the following with the intent to assist the individual in killing himself or herself is guilty of criminal assistance to the killing of an individual, a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00, or both:

(a) Provides the means by which the individual attempts to kill himself or herself or kills himself or herself.

(b) Participates in an act by which the individual attempts to kill himself or herself or kills himself or herself.

(c) Helps the individual plan to attempt to kill himself or herself or to kill himself or herself.

(2) This section does not apply to withholding or withdrawing medical treatment.

(3) This section does not prohibit a prosecution under the common law offense of assisting in a suicide, but a person shall not be convicted under both this section and that common law offense for conduct arising out of the same transaction.

History: Add. 1998, Act 296, Eff. Sept. 1, 1998.

CHAPTER XLVI
HORSE RACING

750.330 Betting odds; publishing and selling.

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Sec. 330. Any person, firm, or corporation, who by means of any newspaper, periodical, poster, notice, or other mode of publication or reproduction, publishes or sells reports of betting odds on horse races wherever conducted is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

This section does not apply to trotting or pacing races permitted to be held in this state, nor to races conducted at state or county fairs or other fairs conducted by agricultural societies; nor as prohibiting the publication of matters pertaining to pedigrees, entries or results of races excepted by this section, or programs for the use solely of spectators at races nor to any publication designed solely for the benefit of breeders or purchasers of stock.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.330;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 1 to 3 of Act 328 of 1917, being CL 1929, §§ 16628 to 16630.

750.331 Racing; definition, penalty.

Sec. 331. All running, trotting, or pacing of horses, or any other animals, for any bet or stakes, in money, goods, or other valuable thing, excepting such as are by special laws for that purpose expressly allowed, constitute racing within the meaning of this section, and are hereby declared to be common and public nuisances and all parties concerned therein, either as authors, betters, stakers, stake-holders, judges to determine the speed of animals, riders, contrivers, or abettors thereof, are guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00. However, this section does not apply to the giving of premiums by agricultural and other societies and associations for the running and trotting of horses at fairs or regularly appointed meetings.

Every person who contributes or collects any money, goods, or things in action, for the purpose of making up a purse, plate, or other valuable thing, to be raced for by any animal, contrary to law, is guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.331;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 1 and 3 of Ch. 40 of R.S. 1846, being CL 1857, §§ 5920 and 5922; CL 1871, §§ 7777 and 7779; How., §§ 9387 and 9389; CL 1897, §§ 11396 and 11398; CL 1915, §§ 15114 and 15116; and CL 1929, §§ 16621 and 16623.

750.332 Fraudulent entry of horses in speed contests.

Sec. 332. Fraudulent entry of horses in speed contests—Any person who shall knowingly and corruptly enter, or cause to be entered for competition, or to compete for any prize, purse, premium, stake or sweepstakes, offered by any agricultural society or driving club, or other society organized under the laws of this state, or by any association of persons in this state where the same is to be decided by a contest of speed, any horse, mare, gelding, colt or filly, under an assumed or false name, or out of its proper class or division, with intent to cheat or deceive such society or organization or association, shall be guilty of a felony.

The class or division in which an entry is made, within the meaning of this section, shall be determined by the rules and regulations of the society, organization or association under whose auspices the contest is to be conducted and the published terms and conditions under which the prize, purse, premium, stake or sweepstakes is offered, opened or announced.

The true name of any horse, mare, gelding, colt or filly, within the meaning of this section, shall be the name by which it is known under and according to the rules and regulations of such society, organization or association, and the name by which any horse, mare, gelding, colt or filly has once competed for any prize, purse, premium, stake or sweepstakes, shall be regarded as its true name, unless the name is changed as provided by said rules and regulations.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.332.

Former law: See sections 1 to 3 of Act 63 of 1891, being CL 1897, §§ 11769 to 11771; CL 1915, §§ 15583 to 15585; and CL 1929, §§ 16625 to 16627.

CHAPTER XLVII
INCEST

750.333 Repealed. 1974, Act 266, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to incest.

750.334 Repealed. 1999, Act 251, Imd. Eff. Dec. 28, 1999.

Compiler's note: The repealed section pertained to incriminating testimony and immunity of witnesses.

CHAPTER XLVIII

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750.335 Lewd and lascivious cohabitation and gross lewdness.

Sec. 335. Any man or woman, not being married to each other, who lewdly and lasciviously associates and cohabits together, and any man or woman, married or unmarried, who is guilty of open and gross lewdness and lascivious behavior, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year, or a fine of not more than $1,000.00. No prosecution shall be commenced under this section after 1 year from the time of committing the offense.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.335;—Am. 1952, Act 73, Eff. Sept. 18, 1952;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 6 and 7 of Ch. 158 of R.S. 1846, being CL 1857, §§ 5861 and 5862; CL 1871, §§ 7696 and 7697; How., §§ 9282 and 9283; CL 1897, §§ 11693 and 11694; CL 1915, §§ 15467 and 15468; and CL 1929, §§ 16822 and 16823.

750.335a Indecent exposure.

Sec. 335a. Any person who shall knowingly make any open or indecent exposure of his or her person or of the person of another is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or by a fine of not more than $1,000.00, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life: Provided, That any other provision of any other statute notwithstanding, said offense shall be triable only in a court of record.

History: Add. 1952, Act 73, Eff. Sept. 18, 1952;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

750.336 Repealed. 1974, Act 266, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to taking indecent liberties with child under 16.

750.337 Women and children; improper language in presence.

Sec. 337. Indecent, etc., language in presence of women or children—Any person who shall use any indecent, immoral, obscene, vulgar or insulting language in the presence or hearing of any woman or child shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.337.

Former law: See section 1 of Act 219 of 1897, being CL 1897, § 11737; CL 1915, § 15533; and CL 1929, § 16888.

750.338 Gross indecency; between male persons.

Sec. 338. Any male person who, in public or in private, commits or is a party to the commission of or procures or attempts to procure the commission by any male person of any act of gross indecency with another male person shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years, or by a fine of not more than $2,500.00, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.338;—Am. 1952, Act 73, Eff. Sept. 18, 1952.

Constitutionality: This section, which prohibits "acts of gross indecency," is not unconstitutionally vague as applied to forced fellatio and fellatio with a minor. People v. Howell, 396 Mich. 16, 238 N.W. 2d 148 (1976).

Former law: See section 1 of Act 198 of 1903, being CL 1915, § 15511; and CL 1929, § 16851.

750.338a Gross indecency; female persons.

Sec. 338a. Any female person who, in public or in private, commits or is a party to the commission of, or any person who procures or attempts to procure the commission by any female person of any act of gross indecency with another female person shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years, or by a fine of not more than $2,500.00, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

History: Add. 1939, Act 148, Eff. Sept. 29, 1939;—CL 1948, 750.338a;—Am. 1952, Act 73, Eff. Sept. 18, 1952.

750.338b Gross indecency; between male and female persons.

Sec. 338b. Any male person who, in public or in private, commits or is a party to the commission of any act of gross indecency with a female person shall be guilty of a felony, punishable as provided in this section. Any female person who, in public or in private, commits or is a party to the commission of any act of gross indecency with a male person shall be guilty of a felony punishable as provided in this section. Any person who procures or attempts to procure the commission of any act of gross indecency by and between any male

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person and any female person shall be guilty of a felony punishable as provided in this section. Any person convicted of a felony as provided in this section shall be punished by imprisonment in the state prison for not more than 5 years, or by a fine of not more than $2,500.00, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

History: Add. 1939, Act 148, Eff. Sept. 29, 1939;—CL 1948, 750.338b;—Am. 1952, Act 73, Eff. Sept. 18, 1952.

750.339-750.342 Repealed. 1974, Act 266, Eff. Apr. 1, 1975.

Compiler's note: The repealed sections pertained to females over 15 debauching males under 15; males over 15 debauching males under 15; ravishing or abusing female patient in mental institution; and carnal knowledge of female ward by guardian.

750.343 Repealed. 1957, Act 265, Imd. Eff. June 13, 1957.

Compiler's note: The repealed section prohibited distribution of obscene literature.

750.343a-750.343d Repealed. 1984, Act 343, Eff. Mar. 29, 1985.

Compiler's note: The repealed sections pertained to obscene, sadistic, or masochistic literature.

750.343e Repealed. 1978, Act 33, Eff. June 1, 1978.

Compiler's note: The repealed section pertained to obscene publications, pictures, or recordings.

750.344-750.346 Repealed. 1984, Act 343, Eff. Mar. 29, 1985.

Compiler's note: The repealed sections pertained to publication of criminal news and accounts of lust, and to distribution of obscene literature by minors, penalties, and search warrants.

750.347 Deformed human beings; exhibition.

Sec. 347. Exhibition of deformed human beings, etc.—Any physician or other person, who shall expose or keep on exhibition any deformed human being or human monstrosity, except as used for scientific purposes before members of the medical profession or medical classes, shall be guilty of a misdemeanor.

Any person who shall so expose or exhibit in museums or elsewhere diseased or deformed human bodies, or parts thereof, or representations of the same, which would be indecent in the case of a living person, except as used for scientific purposes before members of the medical profession or medical classes, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.347.

Former law: See sections 1 to 3 of Act 103 of 1903, being CL 1915, §§ 15518 to 15520; and CL 1929, §§ 16890 to 16892.

CHAPTER XLIX
INDIANS

750.348 Repealed. 2002, Act 260, Imd. Eff. May 1, 2002.

Compiler's note: The repealed section pertained to inciting Indians.

CHAPTER L
KIDNAPING

750.349 Kidnaping.

Sec. 349. Confining person against will, etc.—Any person who wilfully, maliciously and without lawful authority shall forcibly or secretly confine or imprison any other person within this state against his will, or shall forcibly carry or send such person out of this state, or shall forcibly seize or confine, or shall inveigle or kidnap any other person with intent to extort money or other valuable thing thereby or with intent either to cause such person to be secretly confined or imprisoned in this state against his will, or in any way held to service against his will, shall be guilty of a felony, punishable by imprisonment in the state prison for life or for any term of years.

Every offense mentioned in this section may be tried either in the county in which the same may have been committed or in any county in or through which the person so seized, taken, inveigled, kidnaped or whose services shall be sold or transferred, shall have been taken, confined, held, carried or brought; and upon the trial of any such offense, the consent thereto of the person, so taken, inveigled, kidnaped or confined, shall not be a defense, unless it shall be made satisfactorily to appear to the jury that such consent was not obtained by fraud nor extorted by duress or by threats.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.349.

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Former law: See sections 25 and 26 of Ch. 153 of R.S. 1846, being CL 1857, §§ 5735 and 5736; CL 1871, §§ 7534 and 7535; How., §§ 9099 and 9100; CL 1897, §§ 11494 and 11495; CL 1915, §§ 15216 and 15217; CL 1929, §§ 16732 and 16733; Act 189 of 1859; Act 191 of 1875; and Act 135 of 1889.

750.349a Prisoner taking person as hostage.

Sec. 349a. A person imprisoned in any penal or correctional institution located in this state who takes, holds, carries away, decoys, entices away or secretes another person as a hostage by means of threats, coercion, intimidation or physical force is guilty of a felony and shall be imprisoned in the state prison for life, or any term of years, which shall be served as a consecutive sentence.

History: Add. 1972, Act 316, Imd. Eff. Jan. 2, 1973.

750.350 Leading, taking, carrying away, decoying, or enticing away child under 14; intent; violation as felony; penalty; adoptive or natural parent.

Sec. 350. (1) A person shall not maliciously, forcibly, or fraudulently lead, take, carry away, decoy, or entice away, any child under the age of 14 years, with the intent to detain or conceal the child from the child's parent or legal guardian, or from the person or persons who have adopted the child, or from any other person having the lawful charge of the child. A person who violates this section is guilty of a felony, punishable by imprisonment for life or any term of years.

(2) An adoptive or natural parent of the child shall not be charged with and convicted for a violation of this section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.350;—Am. 1983, Act 138, Eff. Dec. 1, 1983.

Former law: See section 30 of Ch. 153 of R.S. 1846, being CL 1857, § 5740; CL 1871, § 7539; How., § 9104; CL 1897, § 11499; CL 1915, § 15221; CL 1929, § 16737; Act 195 of 1885; and Act 95 of 1929.

750.350a Taking or retaining child by adoptive or natural parent; intent; violation as felony; penalty; restitution for financial expense; effect of pleading or being found guilty; probation; discharge and dismissal; nonpublic record; defense.

Sec. 350a. (1) An adoptive or natural parent of a child shall not take that child, or retain that child for more than 24 hours, with the intent to detain or conceal the child from any other parent or legal guardian of the child who has custody or parenting time rights pursuant to a lawful court order at the time of the taking or retention, or from the person or persons who have adopted the child, or from any other person having lawful charge of the child at the time of the taking or retention.

(2) A parent who violates subsection (1) is guilty of a felony, punishable by imprisonment for not more than 1 year and 1 day, or a fine of not more than $2,000.00, or both.

(3) A parent who violates this section, upon conviction, in addition to any other punishment, may be ordered to make restitution to the other parent, legal guardian, the person or persons who have adopted the child, or any other person having lawful charge of the child for any financial expense incurred as a result of attempting to locate and having the child returned.

(4) When a parent who has not been convicted previously of a violation of section 349, 350, or this section, or under any statute of the United States or of any state related to kidnapping, pleads guilty to, or is found guilty of, a violation of this section, the court, without entering a judgment of guilt and with the consent of the accused parent, may defer further proceedings and place the accused parent on probation with lawful terms and conditions. The terms and conditions of probation may include participation in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1082. Upon a violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall discharge from probation and dismiss the proceedings against the parent. Discharge and dismissal under this subsection shall be without adjudication of guilt and is not a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including any additional penalties imposed for second or subsequent convictions. The department of state police shall retain a nonpublic record of an arrest and discharge and dismissal under this section. This record shall be furnished to either or both of the following:

(a) To a court or police agency upon request for the purpose of showing that a defendant in a criminal action has already availed himself or herself of this subsection.

(b) To a court, police agency, or prosecutor upon request for the purpose of determining whether the defendant in a criminal action is eligible for discharge and dismissal of proceedings by a drug treatment court under section 1076(4) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.

(5) It is a complete defense under this section if a parent proves that his or her actions were taken for the purpose of protecting the child from an immediate and actual threat of physical or mental harm, abuse, or neglect.

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History: Add. 1983, Act 138, Eff. Dec. 1, 1983;—Am. 1984, Act 75, Imd. Eff. Apr. 18, 1984;—Am. 1986, Act 193, Eff. Mar. 31, 1987;—Am. 1996, Act 14, Eff. June 1, 1996;—Am. 2004, Act 223, Eff. Jan. 1, 2005.

CHAPTER LI
LABORERS, MECHANICS, EMPLOYEES AND WORKERS

750.351 Consideration for employment.

Sec. 351. Receiving remuneration, etc., from employe in consideration of employment—Any employer or agent or representative of an employer or other person having authority from his employer to hire, employ, or direct the services of other persons in the employment of said employer, who shall demand or receive directly or indirectly from any person when in the employment of said employer, any fee, gift or other remuneration or consideration, or any part or portion of any tips or gratuities received by such employe while in the employment of said employer, in consideration or as a condition of such employment or hiring or employing any person to perform such services for such employer or of permitting said person to continue in such employment is guilty of a misdemeanor.

Nothing contained in this section shall be construed to apply to employment agencies or employment agents licensed and operating under the laws of this state.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.351.

Former law: See sections 1 and 2 of Act 322 of 1919, being CL 1929, §§ 8520 and 8521.

750.352 Molesting and disturbing persons in pursuit of occupation, vocation or avocation.

Sec. 352. Any person or persons who shall, by threats, intimidations, or otherwise, and without authority of law, interfere with, or in any way molest, or attempt to interfere with, or in any way molest or disturb, without such authority, any person, in the quiet and peaceable pursuit of his lawful occupation, vocation or avocation, or on the way to and from such occupation, vocation or avocation, or who shall aid or abet in any such unlawful acts, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1947, Act 297, Eff. Oct. 11, 1947;—CL 1948, 750.352.

Former law: See section 1 of Act 163 of 1867, being CL 1871, § 7690; How., § 9273; CL 1897, § 11343; CL 1915, § 15010; and CL 1929, § 8612.

750.353 Contributions to charitable purposes, deduction from wages.

Sec. 353. Contributions by laborers, etc., to charitable purposes and deductions from wages—Any employer of labor, who, by himself, his agent, clerk or servant, shall require any employe, or person seeking employment, as a condition of such employment or continuance therein, to make and enter into any contract, oral or written, whereby such employe or applicant for employment shall agree to contribute directly or indirectly to any fund for charitable, social or beneficial purpose or purposes, shall be guilty of a misdemeanor.

Any such employer, who, by himself, his agent, clerk or servant, shall deduct from the wages of any employe, directly or indirectly, any part thereof without the full and free consent of such employe, obtained without intimidation or fear of discharge for refusal to permit such deduction, shall be guilty of a misdemeanor.

If the employer be a firm or corporation, each and every member of said firm, and each and every managing officer of the corporation, shall be liable to punishment under this section; and any clerk, servant or agent of any such employer who shall do or attempt to do any act forbidden by this section, shall be equally liable with his employer or employers as principal, for any such violation of this section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.353.

Former law: See sections 1 to 4 of Act 192 of 1893, being CL 1897, §§ 11400 to 11403; CL 1915, §§ 15118 to 15121; and CL 1929, §§ 8513 to 8516.

750.353a Employee welfare plan, failure of employer to contribute as promised.

Sec. 353a. Any employer who promises in writing to make payments to an employee welfare plan, vacation plan, health plan, dental plan, insurance plan, supplemental unemployment benefit plan, profit sharing plan, pension plan or any employee welfare plan, either by contract with an individual employee, by a collective bargaining agreement or by agreement with such employee plan, and who fails to make such payments within 3 weeks after they become due and payable, shall be guilty of a misdemeanor. This section shall not apply where the failure to make payments is prevented by act of God, proceedings in bankruptcy, orders or processes of any court of competent jurisdiction or circumstances over which the employer has no control. Conviction for violation of this section does not relieve the employer of liability for moneys under such agreement or contract.

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History: Add. 1960, Act 15, Eff. Aug. 17, 1960;—Am. 1966, Act 45, Eff. Mar. 10, 1967.

750.354 Insurance with particular company.

Sec. 354. (1) A person doing business in this state or for any of the agents of such person shall not require any of the employees of the person to take out or obtain a life, accident, or life and accident policy in favor of the employee or other person in any particular or designated life, accident, or life and accident company or association.

All contracts hereinafter made between any person and any employee of the person requiring or stipulating that the employee so contracting shall procure, obtain, or have a policy of insurance in any particular or designated company or association are void.

(2) Subsection (1) does not proscribe the employers of labor and the persons employed from voluntarily making agreements with each other for contributions of money by the latter to any fund to be accumulated in their behalf and for their benefit in common with others, and in such case from further agreeing that the employer may deduct from their wages, from time to time, the sums due from them under such agreement.

(3) Any person who violates the provisions of this section is guilty of a misdemeanor, and where such person is a company or corporation, it shall be punished by a fine of not more than $200.00 for each and every offense, and any shareholder, officer, or agent of any such company or corporation violating the provisions of this section shall be punished by imprisonment for not more than 90 days or a fine of not more than $500.00 for each offense.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.354;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 1 to 3 of Act 209 of 1895, being CL 1897, §§ 8584 to 8586; CL 1915, §§ 11357 to 11359; and CL 1929, §§ 8517 to 8519.

750.354a Unlawful to compel certain employees to pay cost of medical examination, photographing or fingerprinting; penalty.

Sec. 354a. It shall be unlawful for any employer in the state of Michigan to compel newly hired employees or employees reporting back to work after a furlough or leave of absence to pay the cost of a medical examination or to pay for being photographed and finger printed, when requested by the employer.

Any employer operating in the state of Michigan violating the provisions of this act shall be liable to a penalty of not more than $100.00 for each and every violation. It shall be the duty of the commissioner of labor to enforce this act.

History: Add. 1947, Act 196, Eff. Oct. 11, 1947;—CL 1948, 750.354a;—Am. 1949, Act 13, Eff. Sept. 23, 1949.

750.355 Temporary water closets.

Sec. 355. Temporary waterclosets for workmen in buildings in course of construction—Any architect who shall refuse, fail or neglect to insert a clause in the specifications for all buildings providing for suitable temporary water closets for the use of workmen employed on such buildings while in the course of erection, unless closets are already maintained on such premises; and any contractor or person erecting such building who shall refuse, fail or neglect to erect such closet within the first week after commencing work thereon, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.355.

Former law: See sections 1 and 2 of Act 205 of 1899, being CL 1915, §§ 5578 and 5579; and CL 1929, §§ 6677 and 6678.

750.355a Consideration for employing or not discharging.

Sec. 355a. Any person who is in the employment of any other person and whose duties in whole or in part consist of the engaging of the services of persons for employment by his employer and/or who has authority to discharge persons in the employment of his employer and who accepts from such person or any other person, any money, gift or anything of value as a part of the consideration for securing such employment or who shall make the purchase of any article of value from any person obligatory on the part of such person seeking employment, or forces an employee to purchase or contract for the purchase of goods, wares or merchandise from any person, as a whole or part consideration for not ordering the discharge of such person shall be deemed guilty of a misdemeanor.

History: Add. 1939, Act 223, Eff. Sept. 29, 1939;—CL 1948, 750.355a.

CHAPTER LII
LARCENY

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750.356 Larceny.

Sec. 356. (1) A person who commits larceny by stealing any of the following property of another person is guilty of a crime as provided in this section:

(a) Money, goods, or chattels.

(b) A bank note, bank bill, bond, promissory note, due bill, bill of exchange or other bill, draft, order, or certificate.

(c) A book of accounts for or concerning money or goods due, to become due, or to be delivered.

(d) A deed or writing containing a conveyance of land or other valuable contract in force.

(e) A receipt, release, or defeasance.

(f) A writ, process, or public record.

(2) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the property stolen, whichever is greater, or both imprisonment and a fine:

(a) The property stolen has a value of $20,000.00 or more.

(b) The person violates subsection (3)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(3) 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 3 times the value of the property stolen, whichever is greater, or both imprisonment and a fine:

(a) The property stolen has a value of $1,000.00 or more but less than $20,000.00.

(b) The person violates subsection (4)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(4) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value of the property stolen, whichever is greater, or both imprisonment and a fine:

(a) The property stolen has a value of $200.00 or more but less than $1,000.00.

(b) The person violates subsection (5) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(5) If the property stolen has a value of less than $200.00, 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 3 times the value of the property stolen, whichever is greater, or both imprisonment and a fine.

(6) The values of property stolen in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property stolen.

(7) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(8) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.356;—Am. 1957, Act 69, Eff. Sept. 27, 1957;—Am. 1998, Act 311, Eff. Jan. 1, 1999.

Constitutionality: A defendant's convictions of both armed robbery and the lesser included offenses of larceny of property with a value over $100 and of larceny in a building cannot be allowed to stand as a violation of the defendant's protection against double jeopardy. People v. Jankowski, 408 Mich. 79, 289 N.W.2d 674 (1980).

Former law: See section 18 of Ch. 154 of R.S. 1846, being CL 1857, § 5762; CL 1871, § 7569; How., § 9140; CL 1897, § 11553; CL 1915, § 15298; CL 1929, § 16899; Act 242 of 1879; and Act 222 of 1929.

750.356a Larceny; motor vehicles or trailers; aggregate value; prior convictions; breaking or entering; damaging.

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Sec. 356a. (1) A person who commits larceny by stealing or unlawfully removing or taking any wheel, tire, air bag, radio, stereo, clock, telephone, computer, or other electronic device in or on any motor vehicle, house trailer, trailer, or semitrailer 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.

(2) Except as provided in subsection (3), a person who enters or breaks into a motor vehicle, house trailer, trailer, or semitrailer to steal or unlawfully remove property from it is guilty of a crime as follows:

(a) If the value of the property is less than $200.00, 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 3 times the value of the property, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value of the property, whichever is greater, or both imprisonment and a fine:

(*i*) The value of the property is $200.00 or more but less than $1,000.00.

(*ii*) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(c) 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 3 times the value of the property, whichever is greater, or both imprisonment and a fine:

(*i*) The value of the property is $1,000.00 or more but less than $20,000.00.

(*ii*) The person violates subdivision (b)(*i*) and has 1 or more prior convictions for violating or attempting to violate this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the property, whichever is greater, or both imprisonment and a fine:

(*i*) The property has a value of $20,000.00 or more.

(*ii*) The person violates subdivision (c)(*i*) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(3) A person who violates subsection (2)(a) or (b) and who breaks, tears, cuts, or otherwise damages any part of the motor vehicle, house trailer, trailer, or semitrailer 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, regardless of the value of the property.

(4) The values of property stolen or unlawfully removed in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property stolen or unlawfully removed.

(5) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(6) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: Add. 1937, Act 194, Imd. Eff. July 14, 1937;—Am. 1939, Act 254, Eff. Sept. 29, 1939;—Am. 1947, Act 124, Eff. Oct. 11, 1947;—CL 1948, 750.356a;—Am. 1998, Act 311, Eff. Jan. 1, 1999.

750.356b Breaking and entering coin operated telephone, penalty.

Sec. 356b. Any person who breaks or enters into any coin operated telephone or a coin device attached to or an integral part thereof for the purpose of stealing or unlawfully removing therefrom any money, regardless of the value thereof, if in so doing such person breaks, tears, cuts or otherwise damages any part of the telephone or any coin device attached to or an integral part thereof, is guilty of a felony.

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History: Add. 1961, Act 81, Eff. Sept. 8, 1961;—Am. 1969, Act 254, Eff. Mar. 20, 1970.

750.356c Retail fraud in first degree.

Sec. 356c. (1) A person who does any of the following in a store or in its immediate vicinity is guilty of retail fraud in the first degree, a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00 or 3 times the value of the difference in price, property stolen, or money or property obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine:

(a) While a store is open to the public, alters, transfers, removes and replaces, conceals, or otherwise misrepresents the price at which property is offered for sale, with the intent not to pay for the property or to pay less than the price at which the property is offered for sale, if the resulting difference in price is $1,000.00 or more.

(b) While a store is open to the public, steals property of the store that is offered for sale at a price of $1,000.00 or more.

(c) With intent to defraud, obtains or attempts to obtain money or property from the store as a refund or exchange for property that was not paid for and belongs to the store, if the amount of money or the value of the property obtained or attempted to be obtained is $1,000.00 or more.

(2) A person who violates section 356d(1) and who has 1 or more prior convictions for committing or attempting to commit an offense under this section or section 218, 356, 356d(1), or 360 is guilty of retail fraud in the first degree. For purposes of this subsection, however, a prior conviction does not include a conviction for a violation or attempted violation of section 218(2) or (3)(b) or section 356(4)(b) or (5).

(3) The values of the difference in price, property stolen, or money or property obtained or attempted to be obtained in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value involved in the offense under this section.

(4) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(5) A person who commits retail fraud in the first degree shall not be prosecuted under section 218(5) or 356(2).

(6) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: Add. 1988, Act 20, Eff. June 1, 1988;—Am. 1998, Act 311, Eff. Jan. 1, 1999.

750.356d Retail fraud in second degree.

Sec. 356d. (1) A person who does any of the following in a store or in its immediate vicinity is guilty of retail fraud in the second degree, a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value of the difference in price, property stolen, or money or property obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine:

(a) While a store is open to the public, alters, transfers, removes and replaces, conceals, or otherwise misrepresents the price at which property is offered for sale with the intent not to pay for the property or to pay less than the price at which the property is offered for sale if the resulting difference in price is $200.00 or more but less than $1,000.00.

(b) While a store is open to the public, steals property of the store that is offered for sale at a price of $200.00 or more but less than $1,000.00.

(c) With intent to defraud, obtains or attempts to obtain money or property from the store as a refund or exchange for property that was not paid for and belongs to the store if the amount of money or the value of the property obtained or attempted to be obtained is $200.00 or more but less than $1,000.00.

(2) A person who violates subsection (4) and who has 1 or more prior convictions for committing or attempting to commit an offense under this section, section 218, 356, 356c, or 360, or a local ordinance substantially corresponding to this section or section 218, 356, 356c, or 360 is guilty of retail fraud in the second degree.

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(3) A person who commits retail fraud in the second degree shall not be prosecuted under section 360.

(4) A person who does any of the following in a store or in its immediate vicinity is guilty of retail fraud in the third degree, a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00 or 3 times the value of the difference in price, property stolen, or money or property obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine:

(a) While a store is open to the public, alters, transfers, removes and replaces, conceals, or otherwise misrepresents the price at which property is offered for sale, with the intent not to pay for the property or to pay less than the price at which the property is offered for sale, if the resulting difference in price is less than $200.00.

(b) While a store is open to the public, steals property of the store that is offered for sale at a price of less than $200.00.

(c) With intent to defraud, obtains or attempts to obtain money or property from the store as a refund or exchange for property that was not paid for and belongs to the store, if the amount of money, or the value of the property, obtained or attempted to be obtained is less than $200.00.

(5) A person who commits retail fraud in the third degree shall not be prosecuted under section 360.

(6) The values of the difference in price, property stolen, or money or property obtained or attempted to be obtained in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value involved in the offense under this section.

(7) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

History: Add. 1988, Act 20, Eff. June 1, 1988;—Am. 1998, Act 311, Eff. Jan. 1, 1999.

750.357 Larceny from the person.

Sec. 357. Larceny from the person—Any person who shall commit the offense of larceny by stealing from the person of another shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.357.

Former law: See section 17 of Ch. 154 of R.S. 1846, being CL 1857, § 5761; CL 1871, § 7568; How., § 9139; CL 1897, § 11552; CL 1915, § 15297; and CL 1929, § 16898.

750.357a Larceny of livestock.

Sec. 357a. Larceny of livestock—Any person who shall commit the offense of larceny by stealing the livestock of another shall be guilty of a felony.

The term “livestock” shall apply to horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids and swine.

History: Add. 1943, Act 171, Eff. July 30, 1943;—CL 1948, 750.357a.

750.357b Committing larceny by stealing firearm of another person as felony; penalty.

Sec. 357b. A person who commits larceny by stealing the firearm of another person is guilty of a felony, punishable by imprisonment for not more than 5 years or by a fine of not more than $2,500.00, or both.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991.

750.358 Larceny at a fire.

Sec. 358. Larceny at a fire—Any person who shall commit the offense of larceny by stealing in any building that is on fire, or by stealing any property removed in consequence of alarm caused by fire, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or by a fine of not more than 2,500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.358.

Former law: See section 16 of Ch. 154 of R.S. 1846, being CL 1857, § 5760; CL 1871, § 7567; How., § 9138; CL 1897, § 11551; CL 1915, § 15296; and CL 1929, § 16897.

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750.359 Larceny from vacant dwelling.

Sec. 359. Any person or persons who shall steal or unlawfully remove or in any manner damage any fixture, attachment, or other property belonging to, connected with, or used in the construction of any vacant structure or building, whether built or in the process of construction or who shall break into any vacant structure or building with the intention of unlawfully removing, taking therefrom, or in any manner damaging any fixture, attachment, or other property belonging to, connected with, or used in the construction of such vacant structure or building whether built or in the process of construction, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.359;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 99 of 1929, being CL 1929, § 16956.

750.360 Larceny; places of abode, work, storage, conveyance, worship and other places.

Sec. 360. Any person who shall commit the crime of larceny by stealing in any dwelling house, house trailer, office, store, gasoline service station, shop, warehouse, mill, factory, hotel, school, barn, granary, ship, boat, vessel, church, house of worship, locker room or any building used by the public shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1947, Act 190, Eff. Oct. 11, 1947;—CL 1948, 750.360.

Constitutionality: A defendant's convictions of both armed robbery and the lesser included offenses of larceny of property with a value over $100 and of larceny in a building cannot be allowed to stand as a violation of the defendant's protection against double jeopardy. People v. Jankowski, 408 Mich. 79, 289 N.W.2d 674 (1980).

Former law: See section 1 of Act 179 of 1929, being CL 1929, § 16959.

750.360a Electronic or magnetic theft detection; shielding merchandise prohibited; violation as crime.

Sec. 360a. (1) A person shall not do any of the following:

(a) Possess a laminated or coated bag or device that is intended to shield merchandise from detection by an electronic or magnetic theft detection device with the intent to commit or attempt to commit larceny.

(b) Manufacture, sell, offer for sale, or distribute, or attempt to manufacture, sell, offer for sale, or distribute, a laminated or coated bag or device that is intended to shield merchandise from detection by an electronic or magnetic theft detection device knowing or reasonably believing that the bag or device will be used to commit or attempt to commit larceny.

(c) Possess a tool or device designed to allow the deactivation or removal of a theft detection device from any merchandise with the intent to use the tool or device to deactivate a theft detection device on, or to remove a theft detection device from, any merchandise without the permission of the merchant or person owning or lawfully holding that merchandise with the intent to commit or attempt to commit larceny.

(d) Manufacture, sell, offer for sale, or distribute a tool or device designed to allow the deactivation or removal of a theft detection device from any merchandise without the permission of the merchant or person owning or lawfully holding that merchandise knowing or reasonably believing that the tool or device will be used to commit or attempt to commit larceny.

(e) Deactivate a theft detection device or remove a theft detection device from any merchandise in a retail establishment prior to purchasing the merchandise with the intent to commit or attempt to commit a larceny.

(2) A person who violates subsection (1) 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 person has a prior conviction for violating subsection (1), a felony punishable by imprisonment for not more than 4 years or a fine of not more than $4,000.00, or both.

History: Add. 2002, Act 101, Eff. July 1, 2002.

750.361 Larceny or maliciously removing journal bearings or brasses.

Sec. 361. Larceny or maliciously removing journal bearings or brasses—Any person who shall steal or maliciously remove, take, change, add to, take from or in any manner interfere with any journal bearings or brasses or any parts or attachments of any locomotive, tender or car, or any fixture or attachment belonging to, connecting with or used by any railway, railroad or transportation company in this state shall be guilty of a misdemeanor, punishable by imprisonment in the state prison for not less than 1 year nor more than 2 years: Provided, That if the stealing or removal of such journal bearings or brasses, or any parts or attachments of any locomotive, tender or car, or any fixture or attachment belonging to, connected with, or used on any locomotive, tender or car as aforesaid shall be the cause of wrecking any train, locomotive or other car in this state, whereby the life of any person or persons shall be lost as a result of the felonious or malicious stealing,

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nothing in this section shall be construed as preventing prosecution for such crime.

Possession of any journal bearings or brasses or any parts or attachments of any locomotive, tender or car, or any fixture or attachment belonging to, connected with, or used in operating any locomotive, tender or car owned, leased or used by any railroad, railway or transportation company in this state, without the authority of the railroad company owning or leasing the same, shall be prima facie evidence that the same has been stolen or maliciously taken or removed by the person in whose possession the same is found or proved to have been.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.361.

Former law: See sections 1 and 2 of Act 333 of 1917, being CL 1929, §§ 17039 and 17040.

750.362 Larceny by conversion.

Sec. 362. Larceny by conversion, etc.—Any person to whom any money, goods or other property, which may be the subject of larceny, shall have been delivered, who shall embezzle or fraudulently convert to his own use, or shall secrete with the intent to embezzle, or fraudulently use such goods, money or other property, or any part thereof, shall be deemed by so doing to have committed the crime of larceny and shall be punished as provided in the first section of this chapter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.362.

Former law: See section 34 of Ch. 154 of R.S. 1846, being CL 1857, § 5778; CL 1871, § 7585; How., § 9156; CL 1897, § 11570; CL 1915, § 15315; CL 1929, § 16911; and Act 168 of 1875.

750.362a Larceny; rented motor vehicle, trailer or other tangible property; penalty.

Sec. 362a. (1) A person to whom a motor vehicle, trailer, or other tangible property is delivered on a rental or lease basis under a written agreement providing for its return to a particular place at a particular time who with intent to defraud the lessor refuses or willfully neglects to return the vehicle, trailer, or other tangible property after expiration of the time stated in a written notice mailed by registered or certified mail addressed to that person's last known address is guilty of larceny, punishable as provided in this section.

(2) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the vehicle, trailer, or other tangible property, whichever is greater, or both imprisonment and a fine:

(a) The vehicle, trailer, or other tangible property has a value of $20,000.00 or more.

(b) The person violates subsection (3)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(3) 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 3 times the value of the vehicle, trailer, or other tangible property, whichever is greater, or both imprisonment and a fine:

(a) The vehicle, trailer, or other tangible property has a value of $1,000.00 or more but less than $20,000.00.

(b) The person violates subsection (4)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(4) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value of the vehicle, trailer, or other tangible property, whichever is greater, or both imprisonment and a fine:

(a) The vehicle, trailer, or other tangible property has a value of $200.00 or more but less than $1,000.00.

(b) The person violates subsection (5) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(5) If the vehicle, trailer, or other tangible property has a value of less than $200.00, 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 3 times the value of the vehicle, trailer, or other tangible property, whichever is greater, or both imprisonment and a fine.

(6) The values of property not returned in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property not returned.

(7) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose,

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including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(8) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: Add. 1964, Act 241, Eff. Aug. 28, 1964;—Am. 1966, Act 297, Eff. Mar. 10, 1967;—Am. 1998, Act 311, Eff. Jan. 1, 1999.

750.363 Larceny by false personation.

Sec. 363. Larceny by false personation—Any person who shall falsely personate or represent another, and in such assumed character shall receive any money, or other property whatever, intended to be delivered to the party so personated, with intent to convert the same to his own use, shall be deemed by so doing, to have committed the crime of larceny, and shall be punished as provided in the first section of this chapter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.363.

Former law: See section 38 of Ch. 154 of R.S. 1846, being CL 1857, § 5782; CL 1871, § 7589; How., § 9160; CL 1897, § 11574; CL 1915, § 15319; and CL 1929, § 16915.

750.364 Larceny from libraries.

Sec. 364. Larceny from libraries—Any person who shall procure, or take in any way from any public library or the library of any literary, scientific, historical or library society or association, whether incorporated or unincorporated, any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof, with intent to convert the same to his own use, or with intent to defraud the owner thereof, or who having procured or taken any such book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof, shall thereafter convert the same to his own use or fraudulently deprive the owner thereof, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.364.

Former law: See section 2 of Act 3 of 1881, being How., § 9211; CL 1897, § 11641; CL 1915, § 15407; CL 1929, § 17020; and Act 58 of 1911.

750.365 Larceny from car or persons detained or injured by accident.

Sec. 365. Larceny from car or persons detained or injured by accident—Any person who shall steal from any car, while detained by accident or injury to any railroad, locomotive, tender or car, or who shall steal the property of, or rob any person detained, injured or killed by reason of any accident or injury to any such railroad, locomotive, tender or car, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 20 years or by a fine of not more than 10,000 dollars.

At the trial of any case arising under this section, it shall be sufficient prima facie proof of the existence of any railroad company named in the indictment to show that such company was doing business as a railroad company at the time named in the indictment.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.365.

Former law: See section 2 of Act 164 of 1869, being CL 1871, § 7620; How., § 9201; CL 1897, § 11624; CL 1915, § 15389; CL 1929, § 17025; section 10 of Act 164 of 1869, being How., § 9209; CL 1897, § 11632; CL 1915, § 15397; CL 1929, § 17033; and Act 146 of 1881.

750.366 Repealed. 2002, Act 295, Imd. Eff. May 9, 2002.

Compiler's note: The repealed section pertained to larceny involving railroad passenger tickets.

750.367 Taking or injuring trees, shrubs, vines, plants.

Sec. 367. Taking or injuring fruit, shade, ornamental trees, shrubs, vines, etc.—Any person who shall wrongfully take and carry away from any place any fruit tree, ornamental tree, shade tree, ornamental shrub, or any plant, vine, bush, or vegetable there growing, standing or being, with intent to deprive the owner thereof, or who shall without right and with wrongful intent, detach from the ground or injure any fruit tree, ornamental tree, shade tree, ornamental shrub, or any plant, vine, bush, vegetable or produce shall be deemed by so doing to have committed the crime of larceny and shall be punished as provided in the first section of this chapter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.367.

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Former law: See section 1 of Act 174 of 1855, being CL 1857, § 5801; CL 1871, § 7610; How., § 9194; CL 1897, § 11647; CL 1915, § 15416; CL 1929, § 17003; and Act 202 of 1875.

750.367a Larceny of rationed goods, wares and merchandise.

Sec. 367a. Larceny of rationed goods, wares or merchandise—Any person who shall steal any goods, wares, or merchandise, the manufacture, distribution, sale or use of which is restricted or rationed by the federal government, or any of its agencies or instrumentalities, during a state of war between the United States and any other country or nation, shall be guilty of the applicable crime or crimes set forth in Act No. 328 of the Public Acts of 1931, as amended, and upon conviction thereof shall be punished by not to exceed double the fines and imprisonment therein provided. Any prosecution hereunder shall be in circuit court or in a court having similar criminal jurisdiction. The term "steal" as used in this section shall be construed to include the obtaining of any such property or the possession thereof in any manner or by any means defined, or the penalty for which is prescribed, by any section of chapters 31, 36, 52 or 61, or section 280 of chapter 43 of Act No. 328 of the Public Acts of 1931 as amended.

History: Add. 1942, 1st Ex. Sess., Act 5, Imd. Eff. Jan. 28, 1942;—CL 1948, 750.367a.

Compiler's note: For provisions of Act 328 of 1931, referred to in this section, see § 750.1 et seq.

750.367b Taking possession of and use of airplane.

Sec. 367b. Taking possession of and use of an airplane—Any person who shall, wilfully and without authority, take possession of or use an airplane, and any person who shall assist in or be a party to such taking possession of or use of an airplane, belonging to another, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years.

History: Add. 1942, 2nd Ex. Sess., Act 11, Imd. Eff. Feb. 25, 1942;—CL 1948, 750.367b.

750.367c Theft of motor vehicle fuel.

Sec. 367c. The secretary of state shall suspend the operator's or chauffeur's license of a person convicted of an offense or attempted offense under this chapter involving the theft of motor vehicle fuel that occurred by pumping the fuel into a motor vehicle, as provided in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319.

History: Add. 1982, Act 63, Eff. Mar. 30, 1983;—Am. 1998, Act 344, Eff. Oct. 1, 1999.

CHAPTER LIII
LEGAL PROCESS

750.368 Simulating legal process.

Sec. 368. (1) A person or agent of a person shall not by personal service, mail, or otherwise serve or cause to be served upon a debtor a notice or demand of payment of money on behalf of a creditor that is not authorized by a statute or court of this state and that simulates in form and substance legal process issued out of a court of this state.

(2) A person shall not prepare, issue, serve, execute, or otherwise act to further the operation of any unauthorized process.

(3) Except as provided in subsection (4) or (5), a person who violates this section 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.

(4) A person who violates subsection (2) after a prior conviction for violating 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.

(5) A person who violates subsection (2) after 2 or more prior convictions for violating this section 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.

(6) This section does not apply to a lien authorized under a statute of this state.

(7) This section does not prohibit a person from being charged with, convicted of, or sentenced for any other violation of law that individual commits while violating this section.

(8) This section does not prohibit individuals from assembling lawfully or lawful free expression of opinions or designation of group affiliation or association.

(9) As used in this section:

(a) "Lawful tribunal" means a tribunal created, established, authorized, or sanctioned by law or a tribunal of a private organization, association, or entity to the extent that the organization, association, or entity seeks in a lawful manner to affect only the rights or property of persons who are members or associates of that

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organization, association, or entity.

(b) "Legal process" means a summons, complaint, pleading, writ, warrant, injunction, notice, subpoena, lien, order, or other document issued or entered by or on behalf of a court or lawful tribunal or lawfully filed with or recorded by a governmental agency that is used as a means of exercising or acquiring jurisdiction over a person or property, to assert or give notice of a legal claim against a person or property, or to direct persons to take or refrain from an action.

(c) "Public employee" means an employee of this state, an employee of a city, village, township, or county of this state, or an employee of a department, board, agency, institution, commission, authority, division, council, college, university, court, school district, intermediate school district, special district, or other public entity of this state or of a city, village, township, or county in this state, but does not include a person whose employment results from election or appointment.

(d) "Public officer" means a person who is elected or appointed to any of the following:

(*i*) An office established by the state constitution of 1963.

(*ii*) A public office of a city, village, township, or county in this state.

(*iii*) A department, board, agency, institution, commission, court, authority, division, council, college, university, school district, intermediate school district, special district, or other public entity of this state or a city, village, township, or county in this state.

(e) "Unauthorized process" means either of the following:

(*i*) A document simulating legal process that is prepared or issued by or on behalf of an entity that purports or represents itself to be a lawful tribunal or a court, public officer, or other agency created, established, authorized, or sanctioned by law but that is not a lawful tribunal or a court, public officer, or other agency created, established, authorized, or sanctioned by law.

(*ii*) A document that would otherwise be legal process except that it was not issued or entered by or on behalf of a court or lawful tribunal or lawfully filed with or recorded by a governmental agency as required by law. However, this subparagraph does not apply to a document that would otherwise be legal process but for 1 or more technical defects, including, but not limited to, errors involving names, spelling, addresses, or time of issue or filing or other defects that do not relate to the substance of the claim or action underlying the document.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.368;—Am. 1998, Act 360, Eff. Jan. 1, 1999;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 284 of 1927, being CL 1929, § 16596.

750.369 Abuse of legal process.

Sec. 369. Abuse of legal process—Any officer or person who shall wilfully make any arrest or institute any legal proceedings, or sue out any process for the purpose of obtaining the fees or mileage that might accrue thereto or therefor, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.369.

Former law: See section 1 of Act 187 of 1879, being How., § 9263; CL 1897, § 11333; CL 1915, § 15000; and CL 1929, § 16595.

CHAPTER LIV
LIBEL AND SLANDER

750.370 Falsely and maliciously accusing another.

Sec. 370. Falsely and maliciously accusing another of crime, etc.—Any person who shall falsely and maliciously, by word, writing, sign, or otherwise accuse, attribute, or impute to another the commission of any crime, felony or misdemeanor, or any infamous or degrading act, or impute or attribute to any female a want of chastity, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.370.

Former law: See section 1 of Act 192 of 1879, being How., § 9315; CL 1897, § 11762; CL 1915, § 15573; CL 1929, § 16812; and Act 210 of 1885.

750.371 Second or subsequent violation; penalty.

Sec. 371. Any person who is convicted of a second or subsequent violation of this chapter is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not less than $50.00 or more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.371;—Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

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Compiler's note: For provisions of chapter 6 of Act 175 of 1927, referred to in this section, see § 766.1 et seq.

Former law: See section 2 of Act 192 of 1879, being How., § 9315a; CL 1897, § 11763; CL 1915, § 15574; CL 1929, § 16813; and Act 210 of 1885.

CHAPTER LV
LOTTERIES

750.372 Lotteries and gift enterprises; prohibited acts; applicability of subsection (1); "promotional activity" defined; violation as misdemeanor; penalty.

Sec. 372. (1) Except as otherwise provided by law or in this section, a person shall not do any of the following:

(a) Set up or promote within this state any lottery or gift enterprise for money.

(b) Dispose of any property, real or personal, goods, chattels, merchandise, or valuable thing by the way of lottery or gift enterprise.

(c) Aid, either by printing or writing, or in any way be concerned in the setting up, managing, or drawing of a lottery or gift enterprise.

(d) In a house, shop, or building owned or occupied by him or her or under his or her control, knowingly permit the setting up, managing, or drawing of any lottery or gift enterprise, or knowingly permit the sale of any lottery ticket or share of a ticket, or any other writing, certificate, bill, goods, chattels, merchandise, token, or other device purporting or intended to entitle the holder or bearer or other person to any prize or gift or any share of or interest in any prize or gift to be drawn in any lottery or gift enterprise.

(e) Knowingly allow money or other property to be raffled off in a house, shop, or building owned or occupied by him or her or allow money or other property to be won by throwing or using dice or by any other game or course of chance.

(2) Subsection (1) does not apply to a lottery or gift enterprise conducted by a person as a promotional activity that is clearly occasional and ancillary to the primary business of that person. As used in this subsection, "promotional activity" means an activity that is calculated to promote a business enterprise or the sale of its products or services, but does not include a lottery or gift enterprise involving the payment of money solely for the chance or opportunity to win a prize or a lottery or gift enterprise that may be entered by purchasing a product or service for substantially more than its fair market value.

(3) A person violating subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or by a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.372;—Am. 1996, Act 206, Imd. Eff. May 21, 1996.

Former law: See section 1 of Ch. 160 of R.S. 1846, being CL 1857, § 5891; CL 1871, § 7735; How., § 9331; CL 1897, § 11344; CL 1915, § 15050; CL 1929, § 16613; and Act 86 of 1867.

750.372a "Game promotion" defined; force or coercion to purchase, presumption; predetermining identity of one entitled to prize; disclosing description, amount, number of prizes; penalty, misdemeanor.

Sec. 372a. (a) For purposes of this section, the term game promotion shall mean any game or contest in which the elements of chance and prize are present but in which the element of consideration is not present.

(b) No person shall force or coerce his lessee, agent or franchise dealer to purchase game promotions. For the purposes of this subsection, coercion or force may be presumed in those circumstances in which a course of business conduct extending over a period of 1 year or longer between a lessor and lessee or a principal and agent or an owner and franchise dealer is materially changed coincident with a failure or refusal of a lessee, agent or franchise dealer to purchase game promotions.

(c) No person who shall conduct a game promotion within this state shall, in connection with such promotion, predetermine the identity of any individual entitled to receive a prize in such game promotion.

(d) Any person who shall conduct a game promotion within this state shall disclose to participants as to such game promotion, on a prominent poster in case such game promotion is conducted by a retail outlet, or on any card, game piece, entry blank or any other paraphernalia required for participation in a game promotion in case such game promotion is not conducted in a retail outlet, the geographic area or number of outlets in which the game promotion is proposed to be conducted, an accurate description of each type of prize to be made available, the minimum number and minimum amount of cash prizes to be made available and the minimum number of each other type of prize to be made available.

(e) Any person guilty of a violation of this section, shall be guilty of a misdemeanor.

History: Add. 1968, Act 348, Eff. Nov. 15, 1968.

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750.373 Game promotion; tickets; selling, possession, exchange.

Sec. 373. Selling, etc., lottery or gift enterprise tickets—Any person who shall sell either for himself or for any other person, or shall offer for sale, or shall have in his possession with intent to sell or offer for sale, or to exchange or negotiate, or shall in any wise aid or assist in the selling, negotiating or disposing of a ticket in any such lottery or gift enterprise, or a share of a ticket, or any such writing, certificate, bill, goods or merchandise, token or other device as mentioned in the next preceding section, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years or by a fine of not more than 1,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.373.

Former law: See section 2 of Ch. 160 of R.S. 1846, being CL 1857, § 5892; CL 1871, § 7736; How., § 9332; CL 1897, § 11345; CL 1915, § 15051; CL 1929, § 16614; and Act 86 of 1867.

750.374 Game promotion; second offense.

Sec. 374. Second offense—If any person shall, after being convicted of any offense mentioned in either of the 2 next preceding sections, commit the like offense, or any other of the offenses therein mentioned, he shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.374.

Former law: See section 3 of Ch. 160 of R.S. 1846, being CL 1857, § 5893; CL 1871, § 7737; How., § 9333; CL 1897, § 11346; CL 1915, § 15052; CL 1929, § 16615; and Act 86 of 1867.

750.375 Advertising, printing, or publishing lottery tickets; prohibited conduct; violation as misdemeanor; penalty.

Sec. 375. (1) Except in the case of a lottery or gift enterprise conducted pursuant to section 372(2), a person shall not advertise, print, or publish any lottery ticket or gift enterprise or any share in a lottery ticket for sale either by himself or herself or by another person.

(2) Except in the case of a lottery or gift enterprise conducted pursuant to section 372(2), a person shall not set up or exhibit or devise and make for the purpose of being set up and exhibited any sign, symbol, or any emblematic or other representation of a lottery or gift enterprise or of its drawing in any way indicating where a lottery ticket or a share in a lottery ticket or any such writing, certificate, bill, goods, merchandise or chattels, token, or other device may be purchased or obtained and shall not in any way invite or entice, or attempt to entice, any other person to purchase or receive the lottery ticket or a share in a lottery ticket.

(3) A person violating this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500.00, or both.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.375;—Am. 1996, Act 206, Imd. Eff. May 21, 1996;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 4 of Ch. 160 of R.S. 1846, being CL 1857, § 5894; CL 1871, § 7738; How., § 9334; CL 1897, § 11347; CL 1915, § 15053; CL 1929, § 16616; and Act 86 of 1867.

750.376 Extension and application of chapter.

Sec. 376. (1) Except as provided in subsection (2), this chapter shall extend and apply to lotteries owned and carried on in another state.

(2) This chapter shall not apply to the manufacturing and transportation of material in this state in connection with a lottery lawfully conducted in another country or state.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.376;—Am. 1977, Act 318, Imd. Eff. Jan. 9, 1978.

Former law: See section 5 of Ch. 160 of R.S. 1846, being CL 1871, § 7739; How., § 9335; CL 1897, § 11348; CL 1915, § 15054; CL 1929, § 16617; and Act 237 of 1859.

750.376a Savings promotion raffle.

Sec. 376a. This chapter shall not apply to a savings promotion raffle conducted by a domestic credit union pursuant to section 411 of the credit union act or to a savings promotion raffle conducted by a federally chartered credit union, a state or nationally chartered bank, or a state or federally chartered savings and loan association that is conducted in the same manner as a raffle conducted by a domestic credit union under section 411 of the credit union act.

History: Add. 1982, Act 395, Eff. Mar. 30, 1983;—Am. 2003, Act 217, Imd. Eff. Dec. 2, 2003.

CHAPTER LVI
MALICIOUS AND WILFUL MISCHIEF AND DESTRUCTION

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750.377 Repealed. 1994, Act 126, Eff. Mar. 30, 1995.

Compiler's note: The repealed section pertained to maliciously destroying, injuring, or poisoning of animals.

750.377a Willful and malicious destruction of property; personalty.

Sec. 377a. (1) A person who willfully and maliciously destroys or injures the personal property of another person is guilty of a crime as follows:

(a) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the amount of the destruction or injury, whichever is greater, or both imprisonment and a fine:

(*i*) The amount of the destruction or injury is $20,000.00 or more.

(*ii*) The person violates subdivision (b)(*i*) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (c)(*ii*) or (d).

(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 3 times the amount of the destruction or injury, whichever is greater, or both imprisonment and a fine:

(*i*) The amount of the destruction or injury is $1,000.00 or more but less than $20,000.00.

(*ii*) The person violates subdivision (c)(*i*) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (c)(*ii*) or (d).

(c) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the amount of the destruction or injury, whichever is greater, or both imprisonment and a fine:

(*i*) The amount of the destruction or injury is $200.00 or more but less than $1,000.00.

(*ii*) The person violates subdivision (d) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(d) If the amount of the destruction or injury is less than $200.00, 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 3 times the amount of the destruction or injury, whichever is greater, or both imprisonment and a fine.

(2) The amounts of destruction or injury in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated in determining the total amount of the destruction or injury.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: Add. 1941, Act 51, Eff. Jan. 10, 1942;—CL 1948, 750.377a;—Am. 1957, Act 69, Eff. Sept. 27, 1957;—Am. 1998, Act 311, Eff. Jan. 1, 1999.

750.377b Malicious destruction of property; property of police or fire department.

Sec. 377b. Maliciously destroying or injuring certain personal property—Any person who shall wilfully and maliciously destroy or injure the personal property of any fire or police department, including the Michigan state police, shall be guilty of a felony.

History: Add. 1941, Act 209, Eff. Jan. 10, 1942;—CL 1948, 750.377b.

750.377c Intentional damage, destruction, or alteration of school bus as felony; penalty; "school bus" defined.

Sec. 377c. (1) If a person intentionally damages, destroys, or alters a school bus without the permission of the entity that owns that school bus and that damage, destruction, or alteration creates a health or safety hazard to any individual occupying that school bus or who may occupy that school bus, the person is guilty of

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a felony punishable by imprisonment for not more than 5 years, or a fine of not more than $5,000.00, or both.

(2) As used in this section, "school bus" means that term as defined in section 57 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.57 of the Michigan Compiled Laws. School bus includes a school transportation vehicle as that term is defined in section 57c of Act No. 300 of the Public Acts of 1949, being section 257.57c of the Michigan Compiled Laws, if that vehicle is clearly marked as a school transportation vehicle.

History: Add. 1995, Act 13, Eff. Aug. 1, 1995.

750.378 Malicious destruction of property; dam, reservoir, canal, trench.

Sec. 378. Maliciously destroying, injuring, etc., dams, canals, etc.—Any person who shall wilfully and maliciously break down, injure, remove, or destroy any dam, reservoir, canal or trench, or any gate, flume, flash-boards, or other appurtenances thereof, or any levee or structure for the purpose of conveying water to any such dam or reservoir, or any of the wheels, mill-gear, or machinery of any mill, or shall wilfully or wantonly, without color of right, draw off the water contained in any millpond, reservoir, canal, or trench, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.378.

Former law: See section 46 of Ch. 154 of R.S. 1846, being CL 1857, § 5790; CL 1871, § 7597; How., § 9168; CL 1897, § 11582; CL 1915, § 15327; CL 1929, § 16923; and Act 211 of 1875.

750.379 Malicious destruction of property; bridges.

Sec. 379. Maliciously injuring or destroying bridges, etc.—Any person who shall wilfully and maliciously break down, injure, remove or destroy any public or toll bridge, or any railroad, or any lock in any dam, or any lock, culvert or embankment of any canal, or who shall wilfully and maliciously make any aperture or breach in any such embankment, with intent to destroy or injure the same, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.379.

Former law: See section 47 of Ch. 154 of R.S. 1846, being CL 1857, § 5791; CL 1871, § 7598; How., § 9169; CL 1897, § 11583; CL 1915, § 15328; and CL 1929, § 16924.

750.380 Willful and malicious destruction of property; house, barn or building of another.

Sec. 380. (1) A person shall not willfully and maliciously destroy or injure another person's house, barn, or other building or its appurtenances.

(2) If any of the following apply, a person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the amount of the destruction or injury, whichever is greater, or both imprisonment and a fine:

(a) The amount of the destruction or injury is $20,000.00 or more.

(b) The person violates subsection (3)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(3) If any of the following apply, a person who violates subsection (1) 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 3 times the amount of the destruction or injury, whichever is greater, or both imprisonment and a fine:

(a) The amount of the destruction or injury is $1,000.00 or more but less than $20,000.00.

(b) The person violates subsection (4)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(4) If any of the following apply, a person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the amount of the destruction or injury, whichever is greater, or both imprisonment and a fine:

(a) The amount of the destruction or injury is $200.00 or more but less than $1,000.00.

(b) The person violates subsection (5) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(5) If the amount of the destruction or injury is less than $200.00, 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 3 times the amount of the destruction or injury, whichever is greater, or both imprisonment and a fine.

(6) The amounts of the destruction or injury in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total amount of the destruction or injury.

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(7) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(8) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.380;—Am. 1957, Act 69, Eff. Sept. 27, 1957;—Am. 1998, Act 311, Eff. Jan. 1, 1999.

Former law: See section 48 of Ch. 154 of R.S. 1846, being CL 1857, § 5792; CL 1871, § 7599; How., § 9170; CL 1897, § 11584; CL 1915, § 15329; CL 1929, § 16925; and Act 31 of 1877.

750.381 Malicious destruction of property; fences or opening gates.

Sec. 381. Maliciously breaking down or injuring fences or opening gates, etc.—Any person who shall maliciously break down, injure, mar or deface any fence belonging to or enclosing lands not his own, or shall maliciously throw down or open any gate, bars or fence, and leave the same down or open, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.381.

Former law: See section 49 of Ch. 154 of R.S. 1846, being CL 1857, § 5793; CL 1871, § 7600; How., § 9171; CL 1897, § 11585; CL 1915, § 15330; CL 1929, § 16926; Act 206 of 1848; and Act 47 of 1849.

750.382 Maliciously destroying or injuring trees, shrubs, grass, turf, plants, crops, or soil.

Sec. 382. (1) A person who willfully and maliciously, or wantonly and without cause, cuts down, destroys, or injures any tree, shrub, grass, turf, plants, crops, or soil of another that is standing, growing, or located on the land of another is guilty of a crime as follows:

(a) If the value of the trees, shrubs, grass, turf, plants, crops, or soil cut down, destroyed, or injured is less than $200.00, 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 3 times the value of the trees, shrubs, grass, turf, plants, crops, or soil, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value of the trees, shrubs, grass, turf, plants, crops, or soil, whichever is greater, or both imprisonment and a fine:

(*i*) The value of the trees, shrubs, grass, turf, plants, or soil cut down, destroyed, or injured is $200.00 or more but less than $1,000.00.

(*ii*) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(c) 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 3 times the value of the trees, shrubs, grass, turf, plants, crops, or soil, whichever is greater, or both imprisonment and a fine:

(*i*) The value of the trees, shrubs, grass, turf, plants, crops, or soil cut down, destroyed, or injured is $1,000.00 or more but less than $20,000.00.

(*ii*) The person violates subdivision (b)(*i*) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the trees, shrubs, grass, turf, plants, crops, or soil, whichever is greater, or both imprisonment and a fine:

(*i*) The value of the trees, shrubs, grass, turf, plants, crops, or soil cut down, destroyed, or injured is $20,000.00 or more.

(*ii*) The person violates subdivision (c)(*i*) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does

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not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(2) The secretary of state shall suspend the operator's or chauffeur's license of a person convicted of a violation or attempted violation of subsection (1) who committed the offense with a vehicle, as provided in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319. As used in this subsection, "vehicle" means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

(3) The values of trees, shrubs, grass, turf, plants, crops, or soil cut down, destroyed, or injured in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of trees, shrubs, grass, turf, plants, crops, or soil cut down, destroyed, or injured.

(4) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(5) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.382;—Am. 1980, Act 159, Eff. Mar. 31, 1981;—Am. 1998, Act 311, Eff. Jan. 1, 1999;—Am. 1998, Act 344, Eff. Oct. 1, 1999.

Former law: See section 49 of Ch. 154 of R.S. 1846, being CL 1857, § 5793; CL 1871, § 7600; How., § 9171; CL 1897, § 11585; CL 1915, § 15330; CL 1929, § 16926; Act 206 of 1848; Act 47 of 1849; and section 1 of Act 174 of 1855, being CL 1857, § 5801; CL 1871, § 7610; How., § 9194; CL 1897, § 11647; CL 1915, § 15416; CL 1929, § 17003; and Act 202 of 1875.

750.383 Malicious destruction of property; boundary markers; defacing inscriptions, buildings and sign boards; light bulbs.

Sec. 383. Maliciously injuring or destroying boundary markers, guide posts, etc.—Any person who shall wilfully or maliciously break down, injure, remove or destroy any monument erected for the purpose of designating the boundaries of this state or any municipality thereof, or of any tract or lot of land, or any tree marked for that purpose, or shall so break down, injure, remove or destroy any milestone, mileboard, guidepost or guide board, lawfully erected upon any highway, or other public way or railroad, or shall wilfully or maliciously deface, or alter the inscription on any such stone, post or board, or shall wilfully or maliciously mar or deface any building or sign board, or extinguish any lamp, or break, injure, destroy or remove any gas lamp, oil lamp, electric light globe or bulb, or any railing or lamp post, erected on any bridge, sidewalk, street, highway, court or passage, or shall wilfully or maliciously injure, remove, deface or destroy any board or structure lawfully erected or used for the posting of bills, posters, or other notices, or shall wilfully or maliciously mutilate, deface or destroy any bill, poster, or other printed or written notice lawfully posted on any board or structure used for that purpose, without the consent of the owner or occupant thereof, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1941, Act 190, Imd. Eff. June 16, 1941;—CL 1948, 750.383.

Former law: See section 50 of Ch. 154 of R.S. 1846, being CL 1857, § 5794; CL 1871, § 7601; How., § 9172; CL 1897, § 11586; CL 1915, § 15331; CL 1929, § 16927; Act 106 of 1877; and Act 280 of 1913.

750.383a Malicious destruction of property; wilfully cutting, breaking, obstructing, destroying or manipulating without authority utility equipment or appliances.

Sec. 383a. Any person or persons who shall wilfully cut, break, obstruct, injure, destroy, tamper with or manipulate any machinery, tools, equipment, telephone line or post, telegraph line or post, electric line, post, tower or supporting structures, electric wire, insulator, switch or signal, natural gas pipe line, water pipe line, steam heat pipe line or the valves or other appliances or equipment appertaining to or used in connection with such lines, or any other appliance whether herein particularly mentioned or not, being the property of any utility, with the intention and without authority to interrupt or disrupt communications or electric, gas, water or steam heat service, or to curtail or impair the utilization thereof, or who shall conspire, aid, abet in or cause to be done any such unlawful acts, shall be guilty of a felony.

"Utility" includes any pipe line, gas, electric, heat, water, oil, sewer, telephone, telegraph, radio, railway, railroad, airplane, transportation, communication or other system, by whomsoever owned or operated for the

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public use.

History: Add. 1941, Act 190, Imd. Eff. June 16, 1941;—Am. 1947, Act 61, Imd. Eff. Apr. 28, 1947;—CL 1948, 750.383a.

750.384 Malicious destruction of property; logs, timber.

Sec. 384. Maliciously injuring logs, timber, etc.—Any person who shall wilfully and maliciously drive, or cause to be driven or imbedded, any nail, spike, or piece of iron, steel or other metallic substance into any timber, log, or bolt which may now be or may hereafter be put on the banks of or in any of the waters, or any mill yards of this state for the purposes of being made into lumber or marketed, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.384.

Former law: See section 1 of Act 162 of 1869, being CL 1871, § 7618; How., § 9183; CL 1897, § 11596; CL 1915, § 15351; and CL 1929, § 17009.

750.385 Malicious destruction of property; signs, bills and notices placed on private property.

Sec. 385. Destroying and injuring signs, bills and notices placed on private property—Any person who shall wilfully tear down, destroy or in any manner deface any signs, bill or notices on any private lands of this state, or on any lots or premises in any township, city or village shall be guilty of a misdemeanor: Provided, That such signs, bill or notices are not in violation of any general law of the state or municipal ordinance, and were placed by the owner or lessee or by their consent.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.385.

Former law: See sections 1 and 2 of Act 89 of 1897, being CL 1897, §§ 11606 and 11607; CL 1915, §§ 15371 and 15372; and CL 1929, §§ 17004 and 17005.

750.386 Malicious destruction of property; machinery and appliances.

Sec. 386. Maliciously injuring or destroying machinery and appliances used for pumping, signaling or hoisting of men or materials in mines—Any person who shall wilfully and maliciously cut, break, obstruct, injure or destroy or cause to be cut, broken, obstructed, injured or destroyed, any pump, pumprod, man-engine, ladder, ladderway, skip, skip-track, car, car-track, bell, signal, rope, cable, cage, air-compressor, steam boiler, electric generator, or any other appliance or thing whether herein particularly mentioned or not, the same being above ground or under ground in any mine, used for or connected with the hoisting or pumping apparatus, or means of conveyance or escape from any mine; or any stull, timber, plank, platform or other appliance or other thing, whether herein particularly mentioned or not, used for or connected with securing or upholding rock, or used for or connected with the purpose of securing the safety of workmen, the same being under ground in any mine; or shall do the like to any engine house, boiler house, electrical generator house, shaft house or any other structure above ground containing machinery or appliances used for or connected with the pumping, signaling or hoisting of men or materials, or with securing the safety of workmen underground, such mine not being then and there an abandoned mine, shall be guilty of felony, punishable by imprisonment in the state prison not more than 20 years, or by fine of not more than 10,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.386.

Former law: See section 1 of Act 2 of 1889, being How., § 9209b; CL 1897, § 11651; CL 1915, § 15422; CL 1929, § 17017; and Act 31 of 1927.

750.387 Willful destruction of property; memorials of dead; protective or ornamental structures; trees, shrubs, or plants; violation as misdemeanor or felony; penalties; enhanced sentence based on prior convictions.

Sec. 387. (1) A person, other than the burial right owner or his or her representative, heir at law, or a person having care, custody, or control of a cemetery pursuant to law, a contract, or other legal right, shall not willfully destroy, mutilate, deface, injure, or remove a tomb, monument, gravestone, or other structure or thing placed or designed for a memorial of the dead, or a fence, railing, curb, or other thing intended for the protection or for the ornament of any tomb, monument, gravestone, or other structure described in this subsection or any other enclosure for the burial of the dead and shall not willfully destroy, mutilate, remove, cut, break, or injure any tree, shrub, or plant, placed or being within such an enclosure.

(2) Prosecution under subsection (1) may commence upon complaint by the burial right owner or his or her representative, heir at law, or person having care, custody, or control of a cemetery, tomb, monument, gravestone, or other structure or thing described in subsection (1).

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(3) If the total amount of damage is less than $200.00, 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 3 times the amount of damage, whichever is greater, or both imprisonment and a fine.

(4) If any of the following apply, a person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the amount of damage, whichever is greater, or both imprisonment and a fine:

(a) The total amount of damage is $200.00 or more but less than $1,000.00.

(b) The total amount of damage is less than $200.00 and the person has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(5) If any of the following apply, a person who violates subsection (1) 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 3 times the amount of damage, whichever is greater, or both imprisonment and a fine:

(a) The total amount of damage is $1,000.00 or more but less than $20,000.00.

(b) The total amount of damage is $200.00 or more but less than $1,000.00 and the person has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (3) or (4)(b).

(6) If any of the following apply, a person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the amount of damage, whichever is greater, or both imprisonment and a fine:

(a) The total amount of damage is $20,000.00 or more.

(b) The total amount of damage is $1,000.00 or more but less than $20,000.00 and the person has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (3) or (4)(b).

(7) The amounts of damage in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated in determining the total amount of damage.

(8) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(9) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.387;—Am. 1974, Act 166, Eff. Apr. 1, 1975;—Am. 1998, Act 311, Eff. Jan. 1, 1999.

Former law: See section 22 of Ch. 158 of R.S. 1846, being CL 1857, § 5877; CL 1871, § 7712; How., § 9298; CL 1897, § 11711; CL 1915, § 15485; and CL 1929, § 16837.

750.388 Malicious destruction of property; personal property seized by legal process.

Sec. 388. Removing, injuring or destroying personal property seized by legal process—Any person or persons who shall remove, destroy, damage or dispose of any personal property that shall have been seized by due process of law issued from any court of competent jurisdiction in this state, while such seizure or levy is in force, without first giving the bond or other security therefor, if any, required by law, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.388.

Former law: See sections 1 and 2 of Act 164 of 1887, being How., §§ 9186a and 9186b; CL 1897, §§ 11617 and 11618; CL 1915, §§ 15381 and 15382; and CL 1929, §§ 16645 and 16646.

750.389 False or malicious statements as to insurance companies.

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Sec. 389. Any person who shall make, utter, circulate, or transmit to another or others any untrue, false, or malicious statement as to the financial condition of any fraternal beneficiary society, insurance company, reciprocal exchange, or other insurer doing business in this state, and shall thereby injure any such fraternal beneficiary society, insurance company, reciprocal exchange, or other insurer, or who shall counsel, aid, procure, or induce another to originate, make, utter, transmit, or circulate any such statement with like purpose is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.389;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 283 of 1923, being CL 1929, § 12674.

750.390 Malicious annoyance by writing.

Sec. 390. Malicious annoyance by writing—Any person who shall knowingly send or deliver or shall make, and for the purpose of being delivered or sent, shall part with the possession of any letter, postal card or writing containing any obscene language with or without a name subscribed thereto, or signed with a fictitious name, or with any letter, mark or other designation, with the intent thereby to cause annoyance to any person, or with a view or intent to extort or gain any money or property of any description belonging to another, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.390.

Former law: See section 1 of Act 162 of 1883, being How., § 9315b; CL 1897, § 11764; CL 1915, § 15575; and CL 1929, § 16814.

750.391 Maliciously injuring or mutilating library books.

Sec. 391. Maliciously injuring or mutilating library books—Any person who shall wilfully, maliciously or wantonly tear, deface or mutilate or write upon, or by other means injure or mar any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof belonging to or loaned to any public library, or to the library of any literary, scientific, historical or library society or association, whether incorporated or unincorporated, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.391.

Former law: See section 1 of Act 3 of 1881, being How., § 9210; CL 1897, § 11640; CL 1915, § 15406; CL 1929, § 17019; and Act 58 of 1911.

750.392 Vessels, wilfully destroying.

Sec. 392. Wilfully destroying vessels, etc.—Any person who shall wilfully cast away, burn, sink or otherwise destroy any ship, boat or vessel within the body of any county, with intent to injure or defraud any owner of such ship, boat or vessel, or the owner of any property on board the same, or any insurer of such ship, boat or vessel or property or any part thereof, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.392.

Former law: See section 41 of Ch. 154 of R.S. 1846, being CL 1857, § 5785; CL 1871, § 7592; How., § 9163; CL 1897, § 11577; CL 1915, § 15322; and CL 1929, § 16918.

750.393 Buoy or beacon; willfully removing or destroying.

Sec. 393. Any person who shall willfully remove or destroy any buoy or beacon placed in any of the waters of the state, by the authority of the United States, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.393;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

750.394 Train, car, or vehicle, throwing, propelling, or dropping stone or object; violation; penalty; "serious impairment" defined.

Sec. 394. (1) A person shall not throw, propel, or drop a stone, brick, or other dangerous object at a passenger train, sleeping car, passenger coach, express car, mail car, baggage car, locomotive, caboose, or freight train or at a street car, trolley car, or motor vehicle.

(2) A person who violates this section is guilty of a crime as follows:

(a) Except as provided in subdivisions (b), (c), and (d), the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.

(b) Except as provided in subdivision (c), (d), or (e), if the violation causes property damage, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $500.00, or both.

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(c) If the violation causes injury to any person, other than serious impairment or death, 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.

(d) If the violation causes serious impairment to any person, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $5,000.00, or both.

(e) If the violation causes death to any person, 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 or for any contempt of court arising from the same conduct.

(4) As used in this section, "serious impairment" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.394;—Am. 2003, Act 182, Eff. Jan. 1, 2004.

Former law: See section 1 of Act 246 of 1907, being CL 1915, § 8448; CL 1929, § 17038; and Act 2 of 1923.

750.394a Racing event; throwing object at motor vehicle; throwing or placing object on racecourse; misdemeanor; penalty; definition.

Sec. 394a. (1) A person who knowingly throws any object at a motor vehicle participating in a racing event or who knowingly throws or places any object on a racecourse, without authorization, while a motor vehicle is participating in a racing event is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or by a fine of not more than $1,000.00, or both.

(2) For purposes of this section, "racing event" means a motor vehicle race that is sanctioned by a nationally or internationally recognized racing organization and that is run on a privately owned and operated racecourse, and includes preparations, practices, and qualifications for the race.

History: Add. 1986, Act 106, Eff. June 15, 1986.

750.395 Damage or destruction of research property; violation as crime; violation of other law; total value; enhanced sentence; prior convictions; restitution; definitions.

Sec. 395. (1) A person shall not do either of the following:

(a) Damage or destroy the research property of another person with the intent to do either of the following:

(*i*) To frighten, intimidate, or harass any person because of the person's participation or involvement in, or cooperation with, research.

(*ii*) To prevent any person from engaging in any lawful profession, occupation, or activity because of the person's participation or involvement in, or cooperation with, research.

(*iii*) To prevent, delay, hinder, or otherwise harm the research or use of the research.

(b) Place any object in any research property to prevent the lawful growing, harvesting, transportation, keeping, selling, or processing of that research property.

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

(a) If the value of the research property is less than $200.00, 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 3 times the value of the research property damaged or destroyed, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value of the research property damaged or destroyed, whichever is greater, or both imprisonment and a fine:

(*i*) The value of the research property is $200.00 or more but less than $1,000.00.

(*ii*) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit a violation of this section.

(c) 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 3 times the value of the research property damaged or destroyed, whichever is greater, or both imprisonment and a fine:

(*i*) The value of the research property is $1,000.00 or more but less than $20,000.00.

(*ii*) The person violates subdivision (b)(*i*) and has 1 or more prior convictions for violating or attempting to violate this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(d) 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 $15,000.00 or 3 times the value of the research property damaged or destroyed, whichever is greater, or both imprisonment and a fine:

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(*i*) The property has a value of $20,000.00 or more.

(*ii*) The person violates subdivision (c)(*i*) and has 2 or more prior convictions for committing or attempting to commit a violation of this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(e) If the violation results in physical injury to another individual, other than 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 $20,000.00 or 3 times the value of the research property damaged or destroyed, whichever is greater, or both imprisonment and a fine.

(f) If the violation causes serious impairment of a body function to another individual, the person 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 3 times the value of the research property damaged or destroyed, whichever is greater, or both imprisonment and a fine. As used in this subdivision, "serious impairment of a body function" includes, but is not limited to, 1 or more of the following:

(*i*) The loss of a limb or use of a limb.

(*ii*) The loss of a hand, foot, finger, or thumb or use of a hand, foot, finger, or thumb.

(*iii*) The loss of an eye or ear or use of an eye or ear.

(*iv*) The loss or substantial impairment of a bodily function.

(*v*) A serious visible disfigurement.

(*vi*) A comatose state that lasts for more than 3 days.

(*vii*) Any measurable brain damage or mental impairment.

(*viii*) A skull fracture or other serious bone fracture.

(*ix*) A subdural hemorrhage or subdural hematoma.

(g) If the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for not more than 15 years and may be fined not more than $40,000.00 or 3 times the value of the research property damaged or destroyed, whichever is greater.

(3) This section does not prohibit the person from being charged with, convicted of, or punished for any other violation of law arising out of the same criminal transaction as the violation of this section, in lieu of being charged with, convicted of, or punished for the violation of this section.

(4) The value of research property damaged or destroyed in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of research property damaged or destroyed.

(5) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(6) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(7) The court shall order a person convicted of violating this section to pay restitution to the victim. The court may also order the person to pay 1 or more of the following:

(a) All research and development costs for the research property damaged or destroyed that arise out of the violation.

(b) The tuition costs and lost wages of a student conducting research regarding the research property damaged or destroyed or who is unable to conduct or continue research because of a loss that arises out of the violation.

(8) As used in this section:

(a) "Intellectual property" means that term as defined in section 2 of the confidential research information act, 1994 PA 55, MCL 390.1552.

(b) "Person" means an individual, partnership, corporation, limited liability company, association, educational institution, or other legal or business entity.

(c) "Research" means any lawful activity involving the use of animals, animal products, or other animal substances, intended for or used for scientific purposes, including, but not limited to, research, testing, and

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experimentation.

(d) "Research property" means all real, personal, and intellectual property related to research belonging to or conducted by a person.

History: Add. 2004, Act 520, Eff. Apr. 1, 2005.

Compiler's note: Former § 750.395, which pertained to prohibiting the publication and circulation of false and malicious statements about candidates for public office, was repealed by Act 116 of 1954, Eff. June 1, 1955.

CHAPTER LVII
MASKS AND DISGUISES

750.396 Wearing mask or face covering device.

Sec. 396. A person who intentionally conceals his or her identity by wearing a mask or other device covering his or her face for the purpose of facilitating the commission of a crime 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.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.396;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 1 and 2 of Act 276 of 1923, being CL 1929, §§ 16609 and 16610.

CHAPTER LVIII
MAYHEM

750.397 Mayhem.

Sec. 397. Mayhem—Any person who, with malicious intent to maim or disfigure, shall cut out or maim the tongue, put out or destroy an eye, cut or tear off an ear, cut or slit or mutilate the nose or lip, or cut off or disable a limb, organ or member, of any other person, and every person privy to such intent, who shall be present, aiding in the commission of such offense, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by fine of not more than 5,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.397.

Former law: See section 11 of Ch. 153 of R.S. 1846, being CL 1857, § 5721; CL 1871, § 7520; How., § 9085; CL 1897, § 11480; CL 1915, § 15202; and CL 1929, § 16718.

750.397a Placing harmful object or substance in food; furnishing food containing harmful object or substance; penalty.

Sec. 397a. A person who places pins, needles, razor blades, glass, or other harmful objects in any food, or a person who places a harmful substance in any food, with intent to harm the consumer of the food, or who knowingly furnishes any food containing a harmful object or substance to another person, is guilty of a felony and shall be imprisoned for not more than 10 years, or fined not more than $10,000.00, or both.

History: Add. 1971, Act 141, Imd. Eff. Oct. 29, 1971;—Am. 1975, Act 265, Imd. Eff. Oct. 31, 1975.

CHAPTER LIX
MILITARY

750.398 Member of state militia; depriving or obstructing employment.

Sec. 398. Depriving or obstructing employment of one because he is a member of state militia—Any person who shall either by himself or another deprive a member of the organized militia of this state of employment or prevent, obstruct or annoy any such member or his employer in respect of such employment because such member is commissioned or enlisted in the organized militia of this state or because such person performs military duty under orders from competent authority; and any person who shall dissuade any other person from enlisting in the organized militia of this state by threats of injury, in case he shall enlist, in respect of his employment, trade or business, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.398.

Former law: See sections 1 and 4 of Act 194 of 1909, being CL 1915, §§ 971 and 974; and CL 1929, §§ 728 and 731.

750.399 Member of state militia; discrimination.

Sec. 399. Discrimination by associations, etc., against a member of the state militia—Any association or corporation constituted or organized for the purpose of promoting the success of any trade, employment or business of the members thereof and any association whose membership is confined to persons of a particular race, which shall, by any constitution, rule, by-law, regulation, vote or resolution discriminate against any member of the organized militia of this state in respect to the eligibility of the officer or soldier to membership in such association or corporation, or in respect to his right to retain his membership in such

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association or corporation, and any person who shall aid in enforcing any such provision against any officer or soldier of the organized militia of this state with intent to discriminate against such member on account of his membership, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.399.

Former law: See sections 2 and 4 of Act 194 of 1909, being CL 1915, §§ 972 and 974; and CL 1929, §§ 729 and 731.

750.400 Member of state militia; molesting or abusing.

Sec. 400. Molesting or abusing member of state militia because of such membership—Any person who shall unlawfully molest, insult or abuse any member of the organized militia of this state while in the performance of military duty, or unlawfully molest, insult or abuse any such member because of his membership or on account of the performance of military duty while a member, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.400.

Former law: See sections 3 and 4 of Act 194 of 1909, being CL 1915, §§ 973 and 974; and CL 1929, §§ 730 and 731.

750.401 Army, navy or national guard uniform, unauthorized wearing.

Sec. 401. Unauthorized wearing of army, navy or national guard uniform—Any person other than an officer or enlisted man of the national guard of the state of Michigan, or of any other state, or of the United States army or navy, marine corps or revenue service or forest service, or instructor or student in a military school, or inmate of any veterans' or soldiers' home, who at any time wears the uniform of the United States army or navy or national guard, or any part of such uniform, or a uniform or part of a uniform similar thereto, within the bounds of the state of Michigan, shall be guilty of a misdemeanor: Provided, That nothing in this section shall be construed as prohibiting persons of the theatrical profession from wearing such uniform in any playhouse or theatre while actually engaged in following said profession: Provided further, That nothing in this section shall be construed as prohibiting the uniform rank of civic societies parading or traveling in a body or assembling in a lodge room: Provided further, That whenever the national guard or any part thereof is in active service, or is called into actual service, no civic organization or member thereof shall parade or appear in uniform in the locality where said national guard is in service.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.401.

Former law: See section 1 of Act 201 of 1909, being CL 1915, § 998; and CL 1929, § 911.

750.402 Societies parading under arms.

Sec. 402. Certain societies parading under arms—Any society whose membership is confined to members of a certain race, which has heretofore adopted a uniform similar to the uniform of the organized militia of this state, may continue to wear the same when appearing in public, but the governor of this state may, by a proper order, in times of public tumult, direct that such societies shall not parade under arms, and if any society disobey such order, the persons so violating said order shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.402.

Former law: See section 2 of Act 201 of 1909, being CL 1915, § 999; and CL 1929, § 912.

750.403 Desertion from military service.

Sec. 403. Desertion from military service—Any commissioned officer, non-commissioned officer, musician or private who shall desert the service of the United States, or of this state, shall, unless claimed and punished under the authority and by the law of the United States, be guilty of a misdemeanor, punishable by imprisonment in the state prison for not more than 2 years; and it shall be the duty of any sheriff, undersheriff, deputy sheriff, constable, city or village marshal, to arrest any such deserter wherever he may be found in this state, whenever such officer shall have knowledge, or reasonable evidence, by affidavit, of such desertion, and shall thereupon forthwith notify the adjutant general of this state.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.403.

Former law: See section 1 of Act 128 of 1863, being CL 1871, § 7761; How., § 9358; CL 1897, § 11387; CL 1915, § 15105; and CL 1929, § 16638.

750.404 Desertion from military service.

Sec. 404. Any person who has enlisted into the service of the United States, or of this state, and who was sworn into such service, or who offers himself or herself as a substitute for a citizen of this state duly drafted into the service of the United States or of this state and after being duly sworn into such service, deserts the same, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

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History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.404;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 6 of Act 128 of 1863, being CL 1871, § 7766; How., § 9363; CL 1897, § 11392; CL 1915, § 15110; and CL 1929, § 16643.

750.405 Desertion from military service; inciting.

Sec. 405. Inciting soldiers to desert—Any person who, during any war, rebellion or insurrection against the United States, or against this state, shall maliciously and advisedly endeavor to seduce any person or persons serving in the forces of the United States or of this state, by land or water, from his or their duty and allegiance, or who shall incite or stir up any such person or persons to commit any act of mutiny, or to desert, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.405.

Former law: See section 2 of Act 128 of 1863, being CL 1871, § 7762; How., § 9359; CL 1897, § 11388; CL 1915, § 15106; and CL 1929, § 16639.

750.406 Military stores, larceny, embezzlement or destruction.

Sec. 406. Larceny, embezzlement or destruction of military stores—Any person who, during any war, rebellion or insurrection against the United States, or against this state, shall wilfully and maliciously embezzle, steal, injure, destroy or secrete any arms or ammunition, or military stores or equipments of the United States, or of this state, or of any officer, soldier or soldiers in the service of the United States, or of this state, or shall wilfully and maliciously destroy, remove or injure any buildings, machinery or material used or intended to be used in the making, repairing or storing of any arms, ammunition, military stores or equipments for the service of the United States, or of this state, whether such buildings, machinery or materials be public or private property, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years or by a fine of not more than 2,500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.406.

Former law: See section 3 of Act 128 of 1863, being CL 1871, § 7763; How., § 9360; CL 1897, § 11389; CL 1915, § 15107; and CL 1929, § 16640.

750.407 Military draft; resisting and inciting resistance.

Sec. 407. Any person who, during any war, rebellion, or insurrection against the United States, or against this state, shall forcibly resist any military draft ordered by the authority of the United States, or of this state, or shall incite, encourage, or command any other person or persons so to resist such draft, or shall unlawfully and willfully dissuade, discourage, or endeavor to hinder any other person or persons from volunteering, enlisting, or mustering into the military service of the United States, or of this state, or shall forcibly resist, or attempt to resist, such volunteering, enlisting, or mustering into such 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.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.407;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 4 of Act 128 of 1863, being CL 1871, § 7764; How., § 9361; CL 1897, § 11390; CL 1915, § 15108; and CL 1929, § 16641.

750.408 Deserters; concealing or harboring as misdemeanor.

Sec. 408. Any person who shall conceal or harbor any soldier or volunteer enlisted in the service of the United States, or of this state, knowing him or her to have deserted, and with intent to aid him or her in such desertion, or shall refuse to deliver him or her up to the orders of his or her commanding officer, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.408;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 5 of Act 128 of 1863, being CL 1871, § 7765; How.,§ 9362; CL 1897, § 11391; CL 1915, § 15109; and CL 1929, § 16642.

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.

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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 N.W.2d 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.

750.411 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

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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; violation; penalty; payment of costs by juvenile.

Sec. 411a. (1) Except as provided in subsection (2), 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) 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) 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.

(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) 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) 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) The court may order a person convicted under subsection (2) 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 or fire emergency response vehicles and teams, pursuant to 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.

(5) If the person ordered to pay costs under subsection (4) 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

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payment of the amount due will impose a manifest hardship on the parent.

(6) 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) "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.

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 Athletic agent; prohibited conduct; violation as misdemeanor; penalty; definitions.

Sec. 411e. (1) An athlete agent shall not do either of the following:

(a) Induce a student athlete to enter into an agent contract or professional sport services contract before the student athlete's eligibility for collegiate athletics expires.

(b) Enter into an agreement whereby the athlete agent gives, offers, or promises anything of value to an employee of an institution of higher education in return for the referral of a student athlete by that employee.

(2) An athlete agent who violates subsection (1) is guilty of a misdemeanor, punishable by a fine of not more than $50,000.00 or an amount equal to 3 times the amount given, offered, or promised as an inducement as described in subsection (1)(a) or 3 times the value of the agreement entered into as described in subsection (1)(b), whichever is greater, or imprisonment for not more than 1 year, or both.

(3) As used in this section:

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(a) "Agent contract" means any contract or agreement pursuant to which a person authorizes or empowers an athlete agent to negotiate or solicit on behalf of the person with 1 or more professional sport teams for the employment of the person by a professional sport team or to negotiate or solicit on behalf of the person for the employment of the person as a professional athlete.

(b) "Athlete agent" means a person who, directly or indirectly, recruits or solicits a person to enter into an agent contract or professional sport services contract, or who procures, offers, promises, or attempts to obtain employment for a person with a professional sport team or as a professional athlete. Athlete agent does not include a member of a person's immediate family.

(c) "Immediate family" means a person's spouse, child, parent, stepparent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or the spouse or guardian of any of the persons described in this subdivision.

(d) "Institution of higher education" means a public or private college or university.

(e) "Person" means an individual, sole proprietorship, partnership, association, corporation, or other legal entity.

(f) "Professional sport services contract" means a contract or agreement pursuant to which a person is employed or agrees to render services as a player on a professional sport team or as a professional athlete.

(g) "Student athlete" means an individual who engages in, is eligible to engage in, or may be eligible to engage in any intercollegiate sporting event, contest, exhibition, or program.

History: Add. 1988, Act 476, Imd. Eff. Dec. 28, 1988.

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.

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

(c) "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.

(d) "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.

(e) "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.

(f) "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.

(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 his or her 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.

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.

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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.

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(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, USCOA docket No. 00-1809 (2002).

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 or section 17766a of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461 and 333.17766a, concerning controlled substances or androgenic anabolic steroids.

(b) "Knowingly", in the case of a corporation, means with the approval or prior actual knowledge of the board of directors, a majority of the directors, or persons who together hold a majority of the voting ownership interests in the corporation. In determining whether a majority of the directors approved of or had knowledge of the activity, a director who was not aware of the activity due to his or her own negligence or other fault is regarded as having had knowledge of the activity. This subdivision does not limit the liability of any individual officer, employee, director, or stockholder of a corporation.

(c) "Financial transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery, exchange, or other disposition of a monetary instrument or other property and, with respect to a financial institution, includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

(d) "Financial institution" means 1 or more of the following, if located in or doing business in this state:

(*i*) An insured bank, as defined in section 3(h) of the federal deposit insurance act, chapter 967, 64 Stat. 873, 12 U.S.C. 1813(h).

(*ii*) A commercial bank or trust company.

(*iii*) A private banker.

(*iv*) An agency or branch of a foreign bank.

(*v*) A savings and loan institution.

(*vi*) A thrift institution.

(*vii*) A credit union.

(*viii*) A broker or dealer registered with the securities and exchange commission under the securities exchange act of 1934, chapter 404, 48 Stat. 881.

(*ix*) A broker or dealer in securities or commodities.

(*x*) An investment banker or investment company.

(*xi*) A currency exchange.

(*xii*) An insurer, redeemer, or cashier of traveler's checks, checks, or money orders.

(*xiii*) An operator of a credit card system.

(*xiv*) An insurance company.

(*xv*) A dealer in precious metals, stones, or jewels.

(*xvi*) A pawnbroker.

(*xvii*) A loan, finance, or mortgage company.

(*xviii*) A travel agency.

(*xix*) A licensed sender of money.

(*xx*) A telegraph company.

(e) "Monetary instrument" means coin or currency of the United States or another country, or group of countries, a traveler's check, personal check, bank check, money order, or investment security or negotiable instrument in bearer form or in any other form such that delivery is sufficient to pass title.

(f) "Proceeds of a specified criminal offense" means any monetary instrument or other real, personal, or intangible property obtained through the commission of a specified criminal offense, including any appreciation in the value of the monetary instrument or property.

(g) "Specified criminal offense" means any of the following:

(*i*) A felony violation of section 8 of the tobacco products tax act, 1993 PA 327, MCL 205.428, or section 9 of former 1947 PA 265, concerning cigarette taxes.

(*ii*) A violation of section 11151 of 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.

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(*iii*) A controlled substance offense.

(*iv*) A felony violation of section 60 of the social welfare act, 1939 PA 280, MCL 400.60, concerning welfare fraud.

(*v*) A violation of section 4, 5, or 7 of the medicaid false claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607, concerning medicaid fraud.

(*vi*) A felony violation of section 18 of the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.218, concerning the business of gaming.

(*vii*) A violation of section 409 of the uniform securities act, 1964 PA 265, MCL 451.809, concerning securities fraud.

(*viii*) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675 and 722.677, concerning the display or dissemination of obscene matter to minors.

(*ix*) A felony violation of section 72, 73, 74, or 75, concerning arson.

(*x*) A violation of section 93, 94, 95, or 96, concerning bank bonds, bills, notes, or property.

(*xi*) A violation of section 117, 118, 119, 120, 121, or 124, concerning bribery.

(*xii*) A violation of section 120a, concerning jury tampering.

(*xiii*) A violation of section 145c, concerning child sexually abusive activity or material.

(*xiv*) A felony violation of section 157n, 157p, 157q, 157r, 157s, 157t, or 157u, concerning credit cards or financial transaction devices.

(*xv*) A violation of section 159i, concerning racketeering.

(*xvi*) A felony violation of section 174, 175, 176, 180, 181, or 182, concerning embezzlement.

(*xvii*) A felony violation of chapter XXXIII, concerning explosives or bombs.

(*xviii*) A violation of section 213, concerning extortion.

(*xix*) A felony violation of section 218, concerning false pretenses.

(*xx*) A felony violation of chapter XLI, concerning forgery or counterfeiting.

(*xxi*) A violation of section 271, 272, 273, or 274, concerning securities fraud.

(*xxii*) A violation of section 301, 302, 303, 304, 305, 305a, or 313, concerning gambling.

(*xxiii*) A violation of section 316 or 317 concerning murder.

(*xxiv*) A violation of section 330, 331, or 332, concerning horse racing.

(*xxv*) A violation of section 349, 349a, or 350, concerning kidnapping.

(*xxvi*) A felony violation of chapter LII, concerning larceny.

(*xxvii*) A violation of section 422, 423, 424, or 425, concerning perjury or subornation of perjury.

(*xxviii*) A violation of section 452, 455, 457, 458, or 459, concerning prostitution.

(*xxix*) A violation of section 529, 530, or 531, concerning robbery.

(*xxx*) A felony violation of section 535, 535a, or 536a, concerning stolen, embezzled, or converted property.

(*xxxi*) A violation of 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*).

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

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.

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.

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(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.

750.411*l* Fourth-degree money laundering.

Sec. 411*l*. 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.

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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

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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:

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(*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:

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(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.

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(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.

CHAPTER LXI

MOTOR VEHICLES

750.412 Definition.

Sec. 412. Definition—The term "motor vehicle" as used in this chapter shall include all vehicles impelled on the public highways of this state by mechanical power, except traction engines, road rollers and such vehicles as run only upon rails or tracks.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.412.

750.413 Motor vehicle; taking possession and driving away.

Sec. 413. Taking possession of and driving away a motor vehicle—Any person who shall, wilfully and without authority, take possession of and drive or take away, and any person who shall assist in or be a party to such taking possession, driving or taking away of any motor vehicle, belonging to another, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.413.

Former law: See section 1 of Act 44 of 1907, being CL 1915, § 15430; CL 1929, § 16969; Act 220 of 1917; Act 313 of 1919; and Act 50 of 1927.

750.414 Motor vehicle; use without authority but without intent to steal.

Sec. 414. Any person who takes or uses without authority any motor vehicle without intent to steal the same, or who is a party to such unauthorized taking or using, is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than $1,500.00. However, in case of a first

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offense, the court may reduce the punishment to imprisonment for not more than 3 months or a fine of not more than $500.00. However, this section does not apply to any person or persons employed by the owner of said motor vehicle or anyone else, who, by the nature of his or her employment, has the charge of or the authority to drive said motor vehicle if said motor vehicle is driven or used without the owner's knowledge or consent.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.414;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 33 of 1909, being CL 1915, § 15431; and CL 1929, § 16970.

750.414a Unlawful possession of motor vehicle master key; definition; exceptions; penalty.

Sec. 414a. (a) Except as provided in subsection (c) of this section, no person shall have a motor vehicle master key in his possession.

(b) As used in this section, "motor vehicle master key" means a key which is designed to open locks on more than one motor vehicle but excludes keys supplied with the motor vehicle by the manufacturer or dealer or the exact duplicate of such keys, and excludes keys supplied with replacement locks or the exact duplicate of such keys.

(c) The provisions of subsection (a) shall not apply to the following:

(1) Keys in the possession of garage mechanics, parking lot attendants or others engaged in the business of repairing or storing motor vehicles.

(2) Keys in the possession of law enforcement officers.

(3) Keys in the possession of locksmiths, key makers or other persons engaged in the business of making, altering, duplicating or repairing locks or keys.

(d) Violation of the provisions of this section shall be a misdemeanor.

History: Add. 1966, Act 272, Eff. Mar. 10, 1967.

750.415 Concealing or misrepresenting identity of motor vehicle or mechanical device as misdemeanor or felony; evidence of violation; confiscation; sale at public auction; revocation of dealer's license; vehicle identification plate and applicable labels; motor vehicle or part with identification number removed.

Sec. 415. (1) A person who, without the intent to mislead another as to the identity of the vehicle, conceals or misrepresents the identity of a motor vehicle or of a mechanical device by removing or defacing the manufacturer's serial number or the engine or motor number on the motor vehicle, or by replacing a part of the motor vehicle or mechanical device bearing the serial number or engine or motor number of the vehicle with a new part upon which the proper serial number or engine or motor number has not been stamped, is guilty of a misdemeanor.

(2) A person who, with the intent to mislead another as to the identity of a vehicle, conceals or misrepresents the identity of a motor vehicle or of a mechanical device by removing or defacing the manufacturer's serial number or the engine or motor number on the motor vehicle, or by replacing a part of the motor vehicle or mechanical device bearing the serial number or engine or motor number of the vehicle with a new part upon which the proper serial number or engine or motor number has not been stamped, is guilty of a felony, and if the person is a licensed dealer, the dealer's license shall be revoked.

(3) In all prosecutions under this section, possession by a person of a motor vehicle or of a mechanical device with the manufacturer's serial number or the engine or motor number removed, defaced, destroyed or altered or with a part bearing the number or numbers replaced by one on which the proper number does not appear, shall be prima facie evidence of violation of this section.

(4) If the identification of a motor vehicle or a mechanical device has been removed, defaced, or altered as provided in this section and the real identity of the motor vehicle or mechanical device cannot be determined, the motor vehicle or mechanical device shall be subject to confiscation by the state and shall be sold at public auction, put to official use by the government agency seizing the vehicle, or rendered scrap. If the items are confiscated from a licensed vehicle dealer, the dealer's license shall be revoked.

(5) A person shall not knowingly possess, buy, deliver, or offer to buy, sell, exchange, or give away any manufacturer's vehicle identification number plate, federal safety certification label, antitheft label, posident die stamps, secretary of state vehicle identification label, rosette rivet, or any facsimile thereof. This subsection does not apply to a motor vehicle manufacturer, a motor vehicle parts supplier under contract with a motor vehicle manufacturer, or a law enforcement officer in the official performance of his or her duties or to a motor vehicle in which a manufacturer's vehicle identification plate and each of the applicable labels listed in this subsection have been installed as prescribed by law. A person who violates this subsection is guilty of a felony, punishable by imprisonment for not more than 4 years, a fine of not more than $10,000.00, or both. If the person who violates this subsection is a licensed dealer or repair facility, its license shall be

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revoked.

(6) A person shall not buy, receive, or obtain control of a motor vehicle or motor vehicle part with the intent to sell or otherwise dispose of the motor vehicle or motor vehicle part knowing that an identification number of that motor vehicle or motor vehicle part has been removed, obliterated, tampered with, or altered. This subsection does not apply to a motor vehicle obtained from or at the direction of a law enforcement agency. A person who violates this subsection is guilty of a felony punishable by imprisonment for not more than 10 years, a fine of not more than $20,000.00, or both.

(7) As used in this section:

(a) "Antitheft label" means a label containing the vehicle identification number affixed to a motor vehicle by the manufacturer in accordance with subtitle VI of title 49 of the United States Code, 49 U.S.C. 30101 to 33118.

(b) "Federal safety certification label" means a label affixed to a motor vehicle that certifies that the motor vehicle conforms to current safety standards at the time of production and displays the vehicle identification number.

(c) "Motor vehicle" means a device in, upon, or by which a person or property is or may be transported or drawn upon a street, highway, or waterway, whether subject to or exempt from registration, except a device exclusively moved by human power or used exclusively upon stationary rails or tracks.

(d) "Posident die stamps" means specially designed die stamps used by motor vehicle manufacturers to produce unique letters and numbers when stamping vehicle identification numbers upon vehicle identification plates, tags, and parts affixed to a motor vehicle.

(e) "Rosette rivet" means a special rivet designed to prevent removal or tampering with a vehicle identification number plate affixed by the manufacturer to a motor vehicle and that, when used to affix a vehicle identification number plate, forms 5 or 6 petals at the rivet head.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.415;—Am. 1978, Act 494, Eff. Dec. 13, 1978;—Am. 2000, Act 217, Eff. Oct. 1, 2000.

Former law: See sections 1 to 3 of Act 182 of 1917, being CL 1929, §§ 16972 to 16974; Act 115 of 1919; and Act 129 of 1929.

750.416 Motor vehicle; damaging, tampering or meddling with.

Sec. 416. Damaging or unauthorized tampering or meddling with motor vehicle—Any person shall be guilty of a misdemeanor, who shall:

Intentionally and without authority from the owner, start or cause to be started the motor of any motor vehicle, or maliciously shift or change the starting device or gears of a standing motor vehicle to a position other than that in which it was left by the owner or driver of said motor vehicle; or

Intentionally cut, mark, scratch or damage the chassis, running gear, body, sides, top, covering or upholstering of any motor vehicle, the property of another, or intentionally cut, mash, mark, destroy or damage such motor vehicle, or any of the accessories, equipment, appurtenances or attachments thereof, or any spare or extra parts thereon being or thereto attached, without the permission of the owner thereof; or

Intentionally release the brake upon any standing motor vehicle, with intent to injure said machine or cause the same to be removed without the consent of the owner: Provided, That this section shall not apply in case of moving or starting of motor vehicles by the police under authority of local ordinance or by members of fire departments in case of emergency in the vicinity of a fire.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.416.

Former law: See section 1 of Act 219 of 1917, being CL 1929, § 16971.

750.417 Motor vehicle; removal out of state, consent of mortgagee.

Sec. 417. Removal of and remaining out of state of motor vehicle, under mortgage, without consent of mortgagee—Any person who shall have made or executed any mortgage or instrument in writing intended to operate as a mortgage of any motor vehicle and who shall remove such motor vehicle so mortgaged from the state, without fully paying and satisfying said mortgage, and who shall cause or permit the motor vehicle so mortgaged and removed from the state, to remain outside of the state for a period of 30 days or more, without the consent of mortgagee named in said mortgage, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.417.

Former law: See section 1 of Act 233 of 1925, being CL 1929, § 16975.

750.417a Vehicle, watercraft, or aircraft subject to conditional sales contract, security agreement, or lease contract; written consent required for lease or sublease; violation as misdemeanor; court action; construction of section.

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Sec. 417a. (1) A person other than the buyer shall not assist, cause, arrange, or induce the buyer of a vehicle, watercraft, or aircraft that is subject to a conditional sales contract or security agreement to lease or sublease the vehicle, watercraft, or aircraft to another person without first obtaining written consent to the lease or sublease from the holder of the security agreement.

(2) A person other than a party to the lease shall not assist, cause, arrange, or induce the lessee of a vehicle, watercraft, or aircraft that is subject to a lease contract to sublease the vehicle, watercraft, or aircraft to another person without first obtaining written consent to the sublease from the lessor under the lease contract.

(3) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or by a fine of not more than $10,000.00, or both.

(4) A person who suffers a loss as a result of a violation of this section may bring an action in a court of competent jurisdiction to recover 1 or more of the following:

(a) An injunction or restraining order enjoining a person from engaging in a method, act, or practice which is a violation of this section.

(b) Any other equitable relief.

(5) This section shall not be construed to limit the rights or duties a person may have under any other law.

History: Add. 1994, Act 140, Eff. Mar. 30, 1995.

750.418 Motor vehicle; removal out of state, consent of vendor.

Sec. 418. Removal of and remaining out of state of motor vehicle, under a conditional sales contract, without consent of vendor—Any person who shall have acquired possession of a motor vehicle under a conditional sales contract or under a property note, in which said conditional sales contract or property note the title is reserved in the vendor, and who shall remove such motor vehicle so acquired from the state without fully paying for said motor vehicle, and who shall cause or permit said motor vehicle so acquired and removed from the said state, to remain out of the state for a period of 30 days or more, without the consent of the vendor named in said conditional sales contract or property note, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.418.

Former law: See section 2 of Act 233 of 1925, being CL 1929, § 16976.

750.419 Operating or riding motorcycle; moped, or other motor vehicle on bicycle path or sidewalk; misdemeanor; exception.

Sec. 419. A person who operates or rides a motorcycle, moped, or other motor vehicle, excepting motorized wheelchairs upon a bicycle path or a sidewalk regularly laid out and constructed for the use of pedestrians, not including a crosswalk or driveway, is guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.419;—Am. 1975, Act 281, Imd. Eff. Nov. 26, 1975;—Am. 1978, Act 56, Eff. Mar. 30, 1979.

Former law: See sections 1 and 2 of Act 38 of 1917, being CL 1929, §§ 4221 and 4222.

750.420 Motor vehicle; equipment with smoke or gas producing devices.

Sec. 420. Motor vehicles equipped with smoke or gas producing devices—Any person who shall own, operate or have in his possession any motor vehicle equipped with a device for producing excessive smoke or gas, or so equipped as to permit oil or any other chemical to flow into or upon the exhaust pipe or muffler of such vehicle or in any other way to produce or emit smoke or dangerous or annoying gases from any portion of such vehicle other than the ordinary gases emitted by the exhaust of an internal combustion engine under normal operation, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.420.

Former law: See section 1 of Act 58 of 1929, being CL 1929, § 4778.

750.421 Motor vehicles; trailer designed for defense or attack.

Sec. 421. Motor vehicle or trailer designed for purpose of defense or attack—Any person who shall construct, reconstruct, devise, manufacture, purchase, sell, possess or operate any motor vehicle or other vehicle capable of being drawn by a motor vehicle, designed for the use or purpose of defense or attack, from or by explosives, projectiles, ammunition, gases, fumes or other missiles, weapons and firearms, without first obtaining a license therefor from the commissioner of the department of public safety, or his duly authorized deputy, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or by a fine not more than 2,500 dollars: Provided, That the provisions of this section shall not apply to any person constructing, reconstructing, devising, manufacturing, purchasing, selling, possessing or operating such vehicles by virtue of any contract with any department of the government of the United States, or with any foreign government, state, municipality or any subdivision thereof.

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Applications for said license shall be upon forms provided by said commissioner of public safety. The applicant shall possess the same qualifications and said license shall be issued and revoked in the same manner and subject to the same conditions as are prescribed by law for the issuing and revoking of licenses for carrying concealed weapons, insofar as the same are applicable. The said commissioner may prescribe such other rules and regulations as are necessary to carry out the purpose of this section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.421.

750.421a Motor vehicle; assignment of title upon trade-in.

Sec. 421a. Whenever a licensed motor vehicle dealer, his agent or representative, shall give a credit allowance to the owner of a motor vehicle as consideration or part consideration of the purchase price of another motor vehicle sold by said dealer, he shall demand from such owner, and such owner shall furnish to such dealer, a properly assigned certificate of title thereof in the dealer's name. Any licensed motor vehicle dealer, his agent or representative, or the owner of such motor vehicle, who shall assign, or shall permit, aid, counsel or assist in any way in assigning the certificate of title of said motor vehicle to a person other than such dealer, shall be guilty of a misdemeanor.

The term "licensed motor vehicle dealer" as used in this section shall be construed to mean a dealer licensed under the provisions of section 14 of Act No. 46 of the Public Acts of 1921, being section 4671 of the Compiled Laws of 1929, as amended.

History: Add. 1939, Act 345, Imd. Eff. July 5, 1939;—CL 1948, 750.421a.

Compiler's note: Section 14 of Act 46 of 1921, referred to in this section, is § 256.114, which was repealed by Act 300 of 1949.

750.421b Motor vehicle; transporting farm or commercial products, hindering.

Sec. 421b. Any person who shall, without lawful authority, by force, stop or hinder the operation of any vehicle transporting farm or commercial products within this state, or the loading or unloading of such vehicle, with the intent to prevent, hinder or delay transportation, loading or unloading of such products, upon conviction thereof, shall be guilty of an offense punishable by imprisonment in the county or municipal jail for not more than 90 days or by a fine of not more than $100.00, or by both such fine and imprisonment, and upon a second or subsequent offense shall be punished by imprisonment in the state prison for not more than 2 years or by a fine of not more than $1,000.00, or by both such fine and imprisonment. This section shall not apply to railroads.

History: Add. 1943, Act 24, Eff. July 30, 1943;—CL 1948, 750.421b.

750.421c Sale of motor vehicle to unemancipated minor prohibited without consent of parent or guardian; retention of form; penalty.

Sec. 421c. No person shall knowingly sell a motor vehicle to an unemancipated minor under age 18 without the written consent of 1 of the minor's parents or his guardian on a form approved by the secretary of state. No person shall present a false document purporting to be the written consent hereunder. The seller under this section shall retain the required form for a period of 3 years from the date of sale. Any violation of this section constitutes a misdemeanor.

History: Add. 1966, Act 164, Eff. Mar. 10, 1967.

750.421d, 750.421e Repealed. 1974, Act 367, Eff. Apr. 1, 1975.

Compiler's note: The repealed sections pertained to alteration of odometers.

CHAPTER LXII
PERJURY

750.422 Perjury committed in courts.

Sec. 422. Perjury committed in courts—Any person who, being lawfully required to depose the truth in any proceeding in a court of justice, shall commit perjury shall be guilty of a felony, punishable, if such perjury was committed on the trial of an indictment for a capital crime, by imprisonment in the state prison for life, or any term of years, and if committed in any other case, by imprisonment in the state prison for not more than 15 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.422.

Former law: See section 1 of Ch. 156 of R.S. 1846, being CL 1857, § 5820; CL 1871, § 7653; How., § 9235; CL 1897, § 11305; CL 1915, § 14972; and CL 1929, § 16563.

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750.423 Definition.

Sec. 423. Definition—Any person authorized by any statute of this state to take an oath, or any person of whom an oath shall be required by law, who shall wilfully swear falsely, in regard to any matter or thing, respecting which such oath is authorized or required, shall be guilty of perjury, a felony, punishable by imprisonment in the state prison not more than 15 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.423.

Former law: See section 2 of Ch. 156 of R.S. 1846, being CL 1857, § 5821; CL 1871, § 7654; How., § 9236; CL 1897, § 11307; CL 1915, § 14974; and CL 1929, § 16565.

750.424 Subornation of perjury.

Sec. 424. Subornation of perjury—Any person who shall be guilty of subornation of perjury, by procuring another person to commit the crime of perjury, shall be punished as provided in the next preceding section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.424.

Former law: See section 3 of Ch. 156 of R.S. 1846, being CL 1857, § 5822; CL 1871, § 7655; How., § 9237; CL 1897, § 11307; CL 1915, § 14974; and CL 1929, § 16565.

750.425 Inciting or procuring one to commit perjury.

Sec. 425. Inciting or procuring one to commit perjury—Any person who shall endeavor to incite or procure any person to commit the crime of perjury, though no perjury be committed, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.425.

Former law: See section 4 of Ch. 156 of R.S. 1846, being CL 1857, § 5823; CL 1871, § 7656; How., § 9239; CL 1897, § 11309; CL 1915, § 14975; and CL 1929, § 16566.

750.426 Court reasonably believes perjury committed.

Sec. 426. Proceeding when court reasonably believes perjury has been committed—Whenever it shall appear to any court of record that any witness or party who has been legally sworn and examined or has made an affidavit in any proceeding in a court of justice, has testified in such a manner as to induce a reasonable presumption that he has been guilty of perjury therein, the court may immediately commit such witness or party, by an order or process for that purpose, or may take a recognizance with sureties, for his appearing to answer to an indictment for perjury; and thereupon the witness to establish such perjury may, if present, be bound over to the proper court, and notice of the proceedings shall forthwith be given to the prosecuting attorney.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.426.

Former law: See section 5 of Ch. 156 of R.S. 1846, being CL 1857, § 5824; CL 1871, § 7657; How., § 9239; CL 1897, § 11309; CL 1915, § 14976; and CL 1929, § 16567.

750.427 Perjury trial; securing and detaining papers.

Sec. 427. Securing and detaining papers, etc., necessary in perjury trial—If, in any proceeding in a court of justice, in which perjury shall be reasonably presumed, as aforesaid, any papers, books, or documents shall have been produced, which shall be deemed necessary to be used on any prosecution for such perjury, the court may, by order, detain the same from the person producing them so long as may be necessary in order to their being used in such prosecution.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.427.

Former law: See section 6 of Ch. 156 of R.S. 1846, being CL 1857, § 5825; CL 1871, § 7658; How., § 9240; CL 1897, § 11310; CL 1915, § 14977; and CL 1929, § 16568.

CHAPTER LXIII
PHYSICIANS AND SURGEONS

750.428 Dividing fees.

Sec. 428. Any physician or surgeon who shall divide fees with or shall promise to pay a part of his or her fee to or pay a commission to any other physician or surgeon or person who calls him or her in consultation or sends patients to him or her for treatment or operation, and any physician or surgeon who shall receive any money prohibited by this section, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00.

If a physician or surgeon is convicted of violating this section, the board of registration in medicine, upon a first conviction, may and upon a subsequent conviction shall, revoke the license of the person so convicted.

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History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.428;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 1 to 3 of Act 167 of 1919, being CL 1929, §§ 6753 to 6755.

750.429 Employing solicitors, cappers, or drummers.

Sec. 429. Any physician or surgeon engaged in the practice of medicine in this state who shall employ any solicitor, capper, or drummer for the purpose of procuring patients, or who shall subsidize any hotel or boarding house, or who shall pay or present to any person money or other valuable gift for bringing patients to him or her, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.429;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 157 of 1907, being CL 1915, § 6737; and CL 1929, § 6752.

750.430 Prohibited conduct by licensed health care professional; violation as misdemeanor; submission to chemical analysis; admissibility as evidence; conduct of collection and testing; other violations arising out of same transaction; good faith emergency care; order to participate in health professional recovery program; penalties; "licensed health care professional" defined.

Sec. 430. (1) A licensed health care professional who does either of the following is guilty of a misdemeanor:

(a) Engages in the practice of his or her health profession with a bodily alcohol content of .05 or more grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(b) Engages in the practice of his or her health profession while he or she is under the influence of a controlled substance and, due to the illegal or improper use of the controlled substance, his or her ability to safely and skillfully engage in the practice of his or her health profession is visibly impaired.

(2) A peace officer who has reasonable cause to believe an individual violated subsection (1) may require the individual to submit to a chemical analysis of his or her breath, blood, or urine. Before an individual is required to submit to a chemical analysis under this subsection, the peace officer shall inform the individual of all of the following:

(a) The individual may refuse to submit to the chemical analysis, but if he or she refuses, the officer may obtain a court order requiring the individual to submit to a chemical analysis.

(b) If the individual submits to the chemical analysis, he or she may obtain a chemical analysis from a person of his or her own choosing.

(3) The failure of a peace officer to comply with the requirements of subsection (2) renders the results of a chemical analysis inadmissible as evidence in a criminal prosecution for violating this section, in a civil action arising out of a violation of this section, or in any administrative proceeding arising out of a violation of this section.

(4) The collection and testing of breath, blood, or urine specimens under this section shall be conducted in the same manner that breath, blood, or urine specimens are collected and tested for alcohol-related and controlled substance-related driving violations under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(5) This section does not prohibit the individual from being charged with, convicted of, or sentenced for any other violation of law arising out of the same transaction as the violation of this section in lieu of being charged with, convicted of, or sentenced for the violation of this section.

(6) This section does not apply to a licensed health care professional who in good faith renders emergency care without compensation at the scene of an emergency unless the acts or omissions by the licensed health care professional amount to gross negligence or willful and wanton misconduct.

(7) If an individual is convicted under this section, the court shall order that individual to participate in the health professional recovery program established under section 16167 of the public health code, 1978 PA 368, MCL 333.16167.

(8) A violation of this section is punishable as follows:

(a) If the individual's conduct did not result in physical harm or injury to the patient and the individual has not been convicted previously for violating this section, the court, without entering a judgment of guilt and with the consent of the accused and of the prosecuting attorney, may defer further proceedings and place the accused on probation upon terms and conditions that shall include, but are not limited to, participation in the health professional recovery program established under section 16167 of the public health code, 1978 PA 368, MCL 333.16167. The terms and conditions of probation may include participation in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1082. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise

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provided under subdivision (b). Upon fulfillment of the terms and conditions, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt and are not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including additional penalties imposed for second or subsequent convictions under this subsection. There may only be 1 discharge and dismissal under this section as to an individual. The records and identifications division of the department of state police shall retain a nonpublic record of an arrest and discharge or dismissal under this subsection. This record shall only be furnished to either or both of the following:

(*i*) To a court or police agency upon request for the purpose of showing whether the individual accused of violating this section has already once utilized this subdivision.

(*ii*) To a court, police agency, or prosecutor upon request for the purpose of determining whether the defendant in a criminal action is eligible for discharge and dismissal of proceedings by a drug treatment court under section 1076(4) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.

(b) For a first offense, by imprisonment for not more than 180 days or a fine of not more than $1,000.00, or both.

(c) For a second or subsequent offense, by imprisonment for not more than 1 year or a fine of not less than $1,000.00, or both.

(9) As used in this section, "licensed health care professional" means an individual licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.430;—Am. 2002, Act 672, Eff. Mar. 31, 2003;—Am. 2003, Act 235, Eff. Mar. 30, 2004;—Am. 2004, Act 223, Eff. Jan. 1, 2005.

Former law: See section 4 of Ch. 159 of R.S. 1846, being CL 1857, § 5889; CL 1871, § 7729; How., § 9318; CL 1897, § 11407; CL 1915, § 15125; and CL 1929, § 16694.

750.430a Human cloning; prohibition; exception; violation; penalty; "human cloning" defined.

Sec. 430a. (1) An individual shall not intentionally engage in or attempt to engage in human cloning.

(2) Subsection (1) does not prohibit scientific research or cell-based therapies not specifically prohibited by that subsection.

(3) An individual who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $10,000,000.00, or both.

(4) As used in this section, "human cloning" means that term as defined in section 16274 of the public health code, 1978 PA 368, MCL 333.16274.

History: Add. 1998, Act 110, Eff. Mar. 23, 1999.

CHAPTER LXIV
POISONS

750.431 Poisons and antidotes; marking name by retailers.

Sec. 431. Retailers of poisons to mark same poisons and name antidote—Any apothecary, druggist or other person who shall sell and deliver at retail, any arsenic, corrosive sublimate, prussic acid, or any other substance or liquid usually denominated poisonous, without having the word "poison", and the true name thereof, and the name of some simple antidote, if any is known, written or printed upon a label attached to the vial, box, or parcel containing the same, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.431.

Former law: See section 5 of Ch. 159 of R.S. 1846, being CL 1857, § 5890; CL 1871, § 7730; How., § 9319; CL 1897, § 11408; CL 1915, § 15126; CL 1929, § 16695; and Act 74 of 1873.

750.432 Recording sales of poisons.

Sec. 432. Recording sales of poisons—Every apothecary, druggist or other person who sells any arsenic, strychnine, corrosive sublimate, prussic acid or other poison, shall keep a record of the date of such sale, and the article and amount thereof sold, and the person or persons to whom delivered, and their residence, which record shall be open to the inspection of any police officer or physician during the business hours of each day and each and every neglect to keep such record as herein provided, shall be a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.432.

Former law: See section 1 of Act 123 of 1863, being CL 1871, § 7732; How., § 9321; CL 1897, § 11435; CL 1915, § 15143; and CL 1929, § 16703.

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750.433 Giving false or fictitious name.

Sec. 433. Giving false or fictitious name—Any person who shall give a false or fictitious name to the apothecary, druggist or other person from whom any poison mentioned in the next preceding section was purchased shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.433.

Former law: See section 2 of Act 123 of 1863, being CL 1871, § 7733; How., § 9322; CL 1897, § 11436; CL 1915, § 15144; and CL 1929, § 16704.

750.434 Marking containers of naphtha and alcohol.

Sec. 434. Marking containers of wood alcohol, etc.—Any person who shall sell, offer for sale, give away, deal in or supply, or have in his or her possession with intent to sell, offer for sale, give away, deal in or supply any methanol (otherwise known as wood naphtha, wood alcohol or methyl alcohol) or completely denatured alcohol, either crude or refined, unless the container in which the same is sold, offered for sale, given away, dealt in or supplied shall have lithographed or imprinted upon said container or upon a label pasted upon said container the following device and words, in bold characters in red color on white, viz.:

(Skull and cross-bones represented)

POISON

shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.434.

Former law: See sections 1 and 3 of Act 111 of 1927, being CL 1929, §§ 16705 and 16707.

750.435 Denatured alcohol container; label.

Sec. 435. Label on completely denatured alcohol container—Any person who shall sell, offer for sale, give away, deal in or supply, or have in his or her possession with intent to sell, offer for sale, give away, deal in or supply any completely denatured alcohol unless the container in which the same is sold, offered for sale, given away, dealt in or supplied shall have lithographed, imprinted or pasted upon said container the "poison" label prescribed by the federal government under the provisions of the national prohibition act, or any supplement thereto or amendment thereof, shall be guilty of a misdemeanor: Provided, however, That the provisions of this section shall not apply to completely denatured alcohol transferred from manufacturers' or dealers' storage tanks directly to the radiators of automotive vehicles.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.435.

Former law: See sections 2 and 3 of Act 111 of 1927, being CL 1929, §§ 16706 and 16707.

750.436 Mingling poison or harmful substance with food, drink, nonprescription medicine, or pharmaceutical product, or placing poison or harmful substance in spring, well, reservoir, or public water supply; malicious information; violation; penalties.

Sec. 436. (1) A person shall not do either of the following:

(a) Willfully mingle a poison or harmful substance with a food, drink, nonprescription medicine, or pharmaceutical product, or willfully place a poison or harmful substance in a spring, well, reservoir, or public water supply, knowing or having reason to know that the food, drink, nonprescription medicine, pharmaceutical product, or water may be ingested or used by a person to his or her injury.

(b) Maliciously inform another person that a poison or harmful substance has been or will be placed in a food, drink, nonprescription medicine, pharmaceutical product, spring, well, reservoir, or public water supply, knowing that the information is false and that it is likely that the information will be disseminated to the public.

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

(a) Except as provided in subdivisions (b) to (e), 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.

(b) If the violation damages the property of another person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $15,000.00, or both.

(c) If the violation causes physical injury to another individual, other than serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than $20,000.00, or both.

(d) If the violation causes serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than $25,000.00, or both. As used in this subdivision, "serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

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(e) If the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for life without eligibility for parole and may be fined not more than $40,000.00, or both.

(3) A person who violates subsection (1)(b) 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 4 years or a fine of not more than $2,000.00, or both.

(b) If the person has previously been convicted of violating subsection (1)(b), the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $5,000.00, or both.

(4) The court may order a term of imprisonment imposed for a violation of this section to be served consecutively to a term of imprisonment imposed for any other violation of law arising out of the same transaction as the violation of this section.

(5) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.436;—Am. 1988, Act 87, Eff. July 1, 1988;—Am. 2002, Act 135, Eff. Apr. 22, 2002.

Former law: See section 27 of Ch. 153 of R.S. 1846, being CL 1857, § 5737; CL 1871, § 7536; How., § 9101; CL 1897, § 11496; CL 1915, § 15218; and CL 1929, § 16734.

750.437 Exposing poisonous substances where liable to be eaten by beasts; exception.

Sec. 437. Exposing poisonous substances where liable to be eaten by beasts—Any person who shall expose any known poisonous substance, whether mixed with meat or other food or not, so that the same shall be liable to be eaten by any horses, cattle, dogs or other beasts of another, shall be guilty of a misdemeanor: Provided, That it shall not be unlawful to expose on one's own premises common rat poisons mixed only with vegetable substances, nor for any person to expose on his own premises, not within the limits of any incorporated city or village, poisons for the destruction of predatory or dangerous prowling animals.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.437.

Former law: See section 1 of Act 145 of 1895, being CL 1897, § 11598; CL 1915, § 15353; and CL 1929, § 17000.

750.438 Poisonous fly killers; regulations; noncompliance; misdemeanor.

Sec. 438. Manufacture, etc., of poisonous fly killers—Any person who shall manufacture, compound, sell or offer for sale, or cause to be manufactured, compounded, sold or offered for sale, any fly paper or other form of fly killer which contains arsenic or other poison in sufficient quantity to be dangerous to the life or health of persons, unless the same, when so manufactured, compounded, sold or offered for sale, shall be so prepared, constructed or guarded that when in use said poisonous paper, substance, compound or solution shall be inaccessible to children or other persons who might eat, drink or swallow the same, or any portion thereof, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.438.

Former law: See sections 1 and 2 of Act 269 of 1915, being CL 1915, §§ 6344 and 6345; and CL 1929, §§ 17110 and 17111.

CHAPTER LXV
POLYGAMY

750.439 Polygamy; definition; felony.

Sec. 439. Polygamy—Any person who has a former husband or wife living, who shall marry another person, or shall continue to cohabit with such second husband or wife, in this state, he or she shall, except in the cases mentioned herein, be guilty of the crime of polygamy, a felony.

The provisions of this section shall not extend to any person whose husband or wife shall have voluntarily remained beyond the sea, or shall have voluntarily withdrawn from the other and remained absent for the space of five years next preceding such marriage, the party marrying again, not knowing the other to be living within that time, nor to any person who shall have good reason to believe such husband or wife to be dead, nor to any person who has been legally divorced from the bonds of matrimony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.439.

Former law: See sections 4 and 5 of Ch. 158 of R.S. 1846, being CL 1857, §§ 5859 and 5860; CL 1871, §§ 7694 and 7695; How., §§ 9280 and 9281; CL 1897, §§ 11691 and 11692; CL 1915, §§ 15465 and 15466; CL 1929, §§ 16820 and 16821; and Act 91 of 1869.

750.440 Knowingly marrying one to whom marriage is prohibited; felony.

Sec. 440. Knowingly marrying one to whom marriage is prohibited—Any person who knowingly enters into a marriage with another, which is prohibited to the latter by the foregoing provisions of this chapter, is guilty of a felony.

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History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.440.

750.441 Teaching, soliciting and advocating polygamy; felony.

Sec. 441. Teaching, soliciting and advocating the practice of polygamy—Any person who shall solicit to a polygamous life, or teach polygamy as a correct form of family life, for the purpose of inducing men and women to enter into the practice of polygamy or advocate the doctrine and practice of polygamy, or attempt to persuade any person by private or public discourse to adopt a polygamous life, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.441.

Former law: See section 1 of Act 249 of 1899, being CL 1915, § 15501; and CL 1929, § 16845.

CHAPTER LXVI
PRIZE FIGHTS

750.442 Participating in prize fights; felony.

Sec. 442. Participating in prize fight—Any person who shall be a party to, or engage in a prize fight in this state, or who shall aid or abet therein, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.442.

Former law: See section 1 of Act 46 of 1869, being CL 1871, § 7720; How., § 9306; CL 1897, § 11732; CL 1915, § 15526; and CL 1929, § 16893.

750.443 Training party for prize fight; aiding and abetting, felony.

Sec. 443. Training party for prize fight—Any person who shall engage in the training of any party to a prize fight, or shall assist therein, or who shall knowingly carry any person or persons to or from a prize fight shall be deemed aiders and abettors, within the meaning of the preceding section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.443.

Former law: See section 2 of Act 46 of 1869, being CL 1871, § 7721; How., § 9307; CL 1897, § 11733; CL 1915, § 15527; and CL 1929, § 16894.

750.444 Attending prize fight; misdemeanor.

Sec. 444. Attending prize fight—Any person who shall wilfully be present at such prize fight in this state, or shall give or publish notice thereof or invite any person or persons to attend the same, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.444.

Former law: See section 3 of Act 46 of 1869, being CL 1871, § 7722; How., § 9308; CL 1897, § 11734; CL 1915, § 15528; and CL 1929, § 16895.

750.445 Aiders and abettors; misdemeanor.

Sec. 445. Aiders and abettors—Any person who shall, within this state, enter into any agreement or understanding whatsoever or aid, advise or counsel in the making of any such agreement or understanding whatsoever, for a prize fight, to take place either within or without this state, or who shall, in this state, train or prepare any person or persons for a prize fight to take place out of this state, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.445.

Former law: See section 4 of Act 46 of 1869, being CL 1871, § 7723; How., § 9309; CL 1897, § 11735; CL 1915, § 15529; and CL 1929, § 16896.

750.446 Providing incriminating testimony or evidence; use of truthful testimony, evidence, or other information against witness in criminal case.

Sec. 446. A person shall not be excused from attending and testifying or producing any books, papers, or other documents before a court or magistrate upon an investigation, proceeding, or trial for a violation of this chapter on the ground that the testimony or evidence may tend to degrade or incriminate the person. Truthful testimony, evidence, or other truthful information compelled under this section and any information derived directly or indirectly from that truthful testimony, evidence, or other truthful information shall not be used against the witness in a criminal case, except for impeachment purposes or in a prosecution for perjury or otherwise failing to testify or produce evidence as required.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.446;—Am. 1999, Act 251, Imd. Eff. Dec. 28, 1999.

750.447 Inapplicability of chapter.

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Sec. 447. This chapter does not apply to any contests or exhibitions conducted, held, or given pursuant to the provisions of the Michigan boxing regulatory act.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.447;—Am. 2004, Act 404, Eff. Feb. 20, 2005.

Compiler's note: For provisions of Act 328 of 1919, referred to in this section, see § 431.101 et seq.

CHAPTER LXVII
PROSTITUTION

750.448 Soliciting, accosting, or inviting to commit prostitution or immoral act; crime.

Sec. 448. A person 16 years of age or older who accosts, solicits, or invites another person in a public place or in or from a building or vehicle, by word, gesture, or any other means, to commit prostitution or to do any other lewd or immoral act, is guilty of a crime punishable as provided in section 451.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.448;—Am. 1969, Act 243, Eff. Mar. 20, 1970;—Am. 2002, Act 45, Eff. June 1, 2002.

Former law: See section 1 of Act 231 of 1925, being CL 1929, § 16871.

750.449 Admitting to place for purpose of prostitution; crime.

Sec. 449. A person 16 years of age or older who receives or admits or offers to receive or admit a person into a place, structure, house, building, or vehicle for the purpose of prostitution, lewdness, or assignation, or who knowingly permits a person to remain in a place, structure, house, building, or vehicle for the purpose of prostitution, lewdness, or assignation, is guilty of a crime punishable as provided in section 451.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.449;—Am. 1969, Act 243, Eff. Mar. 20, 1970;—Am. 2002, Act 46, Eff. June 1, 2002.

Former law: See section 2 of Act 231 of 1925, being CL 1929, § 16872.

750.449a Engaging services for purpose of prostitution, lewdness, or assignation, offer to engage; penalty.

Sec. 449a. Any male person who engages or offers to engage the services of a female person, not his wife, for the purpose of prostitution, lewdness or assignation, by the payment in money or other forms of consideration, is guilty of a misdemeanor. Any person convicted of violating this section shall be subject to the provisions of Act No. 6 of the Public Acts of the Second Extra Session of 1942, being sections 329.201 to 329.208 of the Compiled Laws of 1948.

History: Add. 1969, Act 243, Eff. Mar. 20, 1970.

750.450 Aiders and abettors; crime.

Sec. 450. A person 16 years of age or older who aids, assists, or abets another person to commit or offer to commit an act prohibited under section 448 or 449 is guilty of a crime punishable as provided in section 451.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.450;—Am. 1969, Act 243, Eff. Mar. 20, 1970;—Am. 2002, Act 46, Eff. June 1, 2002.

Former law: See section 3 of Act 231 of 1925, being CL 1929, § 16873.

750.451 Violation of §§ 750.448, 750.449, 750.449a, 750.450, or 750.462; prior convictions; penalty; definition.

Sec. 451. (1) Except as otherwise provided in this section, a person convicted of violating section 448, 449, 449a, 450, or 462 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.

(2) A person 16 years of age or older who is convicted of violating section 448, 449, 449a, 450, or 462 and who has 1 prior conviction 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) A person convicted of violating section 448, 449, 449a, 450, or 462 and who has 2 or more prior convictions is guilty of a felony punishable by imprisonment for not more than 2 years, or a fine of not more than $2,000.00, or both.

(4) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

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(a) A copy of the judgment of conviction.
(b) A transcript of a prior trial, plea-taking, or sentencing.
(c) Information contained in a presentence report.
(d) The defendant's statement.
(5) As used in this section, "prior conviction" means a violation of section 448, 449, 449a, 450, or 462 or a violation of a law of another state or of a political subdivision of this state or another state substantially corresponding to section 448, 449, 449a, 450, or 462.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.451;—Am. 1969, Act 243, Eff. Mar. 20, 1970;—Am. 2002, Act 43, Imd. Eff. Mar. 14, 2002;—Am. 2002, Act 44, Eff. June 1, 2002.

Former law: See section 4 of Act 231 of 1925, being CL 1929, § 16874.

750.451a Law enforcement officers; applicability.

Sec. 451a. Sections 448, 449, 449a, 450 and 451 do not apply to a law enforcement officer while in the performance of his duties as a law enforcement officer.

History: Add. 1969, Act 243, Eff. Mar. 20, 1970.

750.452 House of ill-fame; keeping, maintaining or operating.

Sec. 452. Keeping, etc., a house of ill-fame—Any person who shall keep, maintain or operate, or aid and abet in keeping, maintaining or operating a house of ill-fame, bawdy house or any house or place resorted to for the purpose of prostitution or lewdness shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years or by a fine of not more than 2,500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.452.

Former law: See section 10 of Ch. 158 of R.S. 1846, being CL 1857, § 5865; CL 1871, § 7700; How., § 9286; CL 1897, § 11697; CL 1915, § 15471; CL 1929; § 16826; Act 34 of 1887; Act 37 of 1927; and Act 40 of 1927.

750.453 Providing incriminating testimony or evidence; use of truthful testimony, evidence, or other information against witness in criminal case.

Sec. 453. A person shall not be excused from attending and testifying or producing any books, papers, or other documents before a court or magistrate upon an investigation, proceeding, or trial for a violation of this chapter on the ground that the testimony or evidence may tend to degrade or incriminate the person. Truthful testimony, evidence, or other truthful information compelled under this section and any information derived directly or indirectly from that truthful testimony, evidence, or other truthful information shall not be used against the witness in a criminal case, except for impeachment purposes or in a prosecution for perjury or otherwise failing to testify or produce evidence as required.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.453;—Am. 1999, Act 251, Imd. Eff. Dec. 28, 1999.

Former law: See section 2 of Act 40 of 1927, being CL 1929, § 16861.

750.454 Leasing houses for purposes of prostitution; misdemeanor.

Sec. 454. Any person who shall let any dwelling house, knowing that the lessee intends to use it as a house of ill-fame or place of resort for the purpose of prostitution and lewdness, or for the purpose of gambling for money or other property, or who shall knowingly permit such lessee to use the same for such purpose, or who shall receive any rent for any dwelling, house, room, or apartment which is used as a house of ill-fame or place of resort for prostitutes, or for the purpose of prostitution and lewdness, or for the purpose of gambling for money or other property, having reasonable cause to believe such house, room, or apartment is used for any such purpose, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00. However, no person shall be liable for receiving rent as aforesaid for any period prior to the time when he or she has reasonable cause to believe that such house, room, or apartment is used for any such purpose.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.454;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 12 of Ch. 158 of R.S. 1846, being CL 1857, § 5867; CL 1871, § 7702; How., § 9288; CL 1897, § 11699; CL 1915, § 15473; CL 1929, § 16828; Act 226 of 1865; and Act 77 of 1873.

750.455 Pandering; felony.

Sec. 455. Pandering—Any person who shall procure a female inmate for a house of prostitution; or who shall induce, persuade, encourage, inveigle or entice a female person to become a prostitute; or who by promises, threats, violence or by any device or scheme, shall cause, induce, persuade, encourage, take, place, harbor, inveigle or entice a female person to become an inmate of a house of prostitution or assignation place, or any place where prostitution is practiced, encouraged or allowed; or any person who shall, by promises,

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threats, violence or by any device or scheme, cause, induce, persuade, encourage, inveigle or entice an inmate of a house of prostitution or place of assignation to remain therein as such inmate; or any person who by promises, threats, violence, by any device or scheme, by fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, or having legal charge, shall take, place, harbor, inveigle, entice, persuade, encourage or procure any female person to enter any place within this state in which prostitution is practiced, encouraged or allowed, for the purpose of prostitution; or who shall inveigle, entice, persuade, encourage, or procure any female person to come into this state or to leave this state for the purpose of prostitution; or who upon the pretense of marriage takes or detains a female person for the purpose of sexual intercourse; or who shall receive or give or agree to receive or give any money or thing of value for procuring or attempting to procure any female person to become a prostitute or to come into this state or leave this state for the purpose of prostitution, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 20 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.455.

Former law: See section 1 of Act 63 of 1911, being CL 1915, § 15494; CL 1929, § 16862; Act 330 of 1925; and Act 37 of 1927.

750.456 Placing wife in house of prostitution; felony.

Sec. 456. Placing wife by fraud, etc., in house of prostitution—Any person who by force, fraud, intimidation or threat places or leaves, or procures any other person to place or leave his wife in a house of prostitution or to lead a life of prostitution, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 20 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.456.

Former law: See section 2 of Act 63 of 1911, being CL 1915, § 15495; CL 1929, § 16863.

750.457 Earnings of prostitute, accepting.

Sec. 457. Accepting money, etc., from earnings of prostitute—Any person who shall knowingly accept, receive, levy or appropriate any money or valuable thing without consideration from the proceeds of the earnings of any woman engaged in prostitution, or any person, knowing a female to be a prostitute, shall live or derive support or maintenance, in whole or in part, from the earnings or proceeds of the prostitution of said prostitute, or from moneys loaned or advanced to or charged against her by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 20 years. And such acceptance, receipt, levy or appropriation of such money or valuable thing, shall, upon any proceeding or trial for violation of this section, be presumptive evidence of lack of consideration.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.457.

Former law: See section 3 of Act 63 of 1911, being CL 1915, § 15496; CL 1929, § 16864; Act 284 of 1934; Act 330 of 1925; Act 37 of 1927; and section 1 of Act 389 of 1919, being CL 1929, § 16869.

750.458 Detaining female in house of prostitution for debt.

Sec. 458. Detaining female in house of prostitution for debt contracted while there—Any person who attempts to detain any female person in a disorderly house or house of prostitution because of any debt or debts she has contracted, or is said to have contracted while living in said house, shall be guilty of a felony, punishable by imprisonment in the state prison for not less than 2 nor more than 20 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.458.

Former law: See section 4 of Act 63 of 1911, being CL 1915, § 15497; and CL 1929, § 16865.

750.459 Transporting female for prostitution; felony.

Sec. 459. Transporting female for prostitution—Any person who shall knowingly transport or cause to be transported, or aid or assist in obtaining transportation for, by any means of conveyance, into, through or across this state, any female person for the purpose of prostitution or with the intent and purpose to induce, entice or compel such female person to become a prostitute shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 20 years; any person who may commit the crime in this section mentioned may be prosecuted, indicted, tried and convicted in any county or city in or through which he shall so transport or attempt to transport any female person as aforesaid.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.459.

Former law: See section 5 of Act 63 of 1911, being CL 1915, § 15498; and CL 1929, § 16866.

750.460 Acts committed outside state.

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Sec. 460. Acts committed outside state—It shall not be a defense to a prosecution for any of the acts prohibited in the next 5 preceding sections of this chapter that any part of such act or acts shall have been committed outside this state, and the offense shall in such case be deemed and alleged to have been committed and the offender tried and punished in any county in which the prostitution was intended to be practiced or in which the offense was consummated, or any overt act in furtherance of the offense shall have been committed.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.460.

Former law: See section 6 of Act 63 of 1911, being CL 1915, § 15499; and CL 1929, § 16867.

750.461 Competency of person to testify for or against accused notwithstanding person's marriage to accused.

Sec. 461. An individual referred to in sections 455 to 459 may be a competent witness in a prosecution under this chapter to testify for or against the accused as to any transaction or as to any conversation with the accused or by the accused with another person in the individual's presence regardless of whether the individual married the accused before or after the violation or whether the individual is called as a witness during the existence of the marriage or after its dissolution.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.461;—Am. 1999, Act 251, Imd. Eff. Dec. 28, 1999.

Former law: See section 7 of Act 63 of 1911, being CL 1915, § 15500; CL 1929, § 16868; Act 330 of 1925; Act 37 of 1927; and section 2 of Act 389 of 1919, being CL 1929, § 16870.

750.462 Female 16 years of age or less in house of prostitution; crime.

Sec. 462. A person who, for a purpose other than prostitution, takes or conveys to, or employs, receives, detains, or allows a person 16 years of age or less to remain in, a house of prostitution, house of ill-fame, bawdy-house, house of assignation, or any house or place for the resort of prostitutes or other disorderly persons is guilty of a crime punishable as provided in section 451.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.462;—Am. 2002, Act 46, Eff. June 1, 2002.

Former law: See sections 2 and 3 of Act 209 of 1885, being How., §§ 9314g and 9314h; CL 1897, §§ 11725 and 11726; CL 1915, §§ 15516 and 15517; and CL 1929, §§ 16881 and 16882.

CHAPTER LXVIII
PUBLIC EXHIBITIONS AND ENTERTAINMENT

750.463 Unpublished and undedicated plays and compositions; consent of owner.

Sec. 463. Public presentation for profit of unpublished or undedicated plays and compositions without consent of owner—No unpublished, uncopyrighted or undedicated dramatic play and no unpublished or undedicated musical composition shall be publicly performed or represented for profit, without consent of the owner or proprietor thereof.

Any person who shall cause to be publicly performed or represented for profit any unpublished, uncopyrighted or undedicated dramatic composition, or unpublished or undedicated musical composition, without the consent of the owner or proprietor or who, knowing that such dramatic or musical composition is unpublished or undedicated, and, without the consent of its owner or proprietor, permits, aids or takes part in such a performance or representation, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.463.

Former law: See sections 1 and 2 of Act 268 of 1905, being CL 1915, §§ 3476 and 3477; and CL 1929, §§ 17022 and 17023.

750.464 Sale of seats in places of public entertainment.

Sec. 464. Sale of seats in places of public entertainment—It shall not be lawful for the proprietor, lessee or manager of any theatre, concert or lecture hall, or other place of public entertainment, to mark, or cause to be marked, any seat or seats in any theatre, concert or lecture hall, or other place of public entertainment, as sold, reserved or taken, unless the seat or seats so marked or designated shall have been actually sold or reserved, at least 1 hour prior to the time of beginning each performance, or entertainment in said theatre, concert or lecture hall, or place of public entertainment, and the purchase of reserved seats for the purpose of selling them is hereby prohibited. Any proprietor, lessee or manager, or other person who shall violate the provisions of this section, shall on conviction thereof, be fined not less than 1 dollar, and not more than 5 dollars, for every seat so marked, designated or purchased.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.464.

Former law: See sections 1 and 2 of Act 12 of 1877, being How., §§ 2089 and 2090; CL 1897, §§ 5466 and 5467; CL 1915, §§ 7150 and 7151; and CL 1929, §§ 8892 and 8893.

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750.464a Consuming intoxicating liquor in unlicensed places; liability.

Sec. 464a. It shall be unlawful for any person to consume, or any person, persons, co-partnership or corporation engaged in the business of operating any public dance hall to knowingly allow, permit or suffer to be consumed any intoxicating liquor, wine, or beer, in any public dance hall, in any toilet, cloak room or appendage to any such dance hall, or in any other room directly connected therewith unless said premises are duly licensed by the Michigan liquor control commission.

Any person engaged in the business of operating any public dance hall whether as owner, proprietor, manager, or employee, shall be held liable for knowingly permitting the violation of the provisions of this section, and any such owner or proprietor shall be held criminally liable for knowingly permitting the acts of his manager, servant, agent or employee in violation of the provisions of this section. The violation of any of the provisions of this section is hereby declared to be a misdemeanor.

History: Add. 1945, Act 292, Eff. Sept. 6, 1945;—CL 1948, 750.464a.

750.465 Sale of tickets for theatre, circus, athletic game, or place of public entertainment or amusement; requirements; prohibitions; penalty.

Sec. 465. (1) The owner, lessee, operator, or manager of each theatre, circus, athletic grounds used for an athletic game, or place of public entertainment or amusement shall have printed on each ticket issued for admission to, or for a seat of, the theatre, circus, athletic grounds, or place of public entertainment or amusement, in conspicuous type, the price of the ticket, and the number on the seat when each seat is numbered. The owner, lessee, operator, or manager also shall print or endorse on the ticket the charge in excess of the box office price at which the ticket is sold if the ticket is purchased at a location other than the box office where the event occurs and the following statement: "This ticket may be purchased at the box office price without the surcharge by purchasing the ticket at the box office where the event is scheduled to occur."

(2) A person owning, occupying, managing, or controlling a building, room, park or enclosure for the sale of tickets for a theatre, circus, athletic game, or place of public entertainment or amusement, who asks, demands, or receives from a person for the sale of the ticket to a theatre, circus, athletic grounds, or place of public entertainment or amusement, a price in excess of the general admission advertised or charged for the same privilege, or a person, who by himself or herself or his or her agent or employee, offers for sale upon a public place or thoroughfare, a ticket to a theatre, circus, athletic grounds, or place of public entertainment or amusement, for admission to, or for a seat or other privilege in a theatre, circus, athletic grounds, or place of public entertainment or amusement, at a price in excess of that demanded or received from the general public for the same privilege, or in excess of the advertised or printed rate, shall be punished as provided in subsection (6), except if the request, demand, or receipt is with the written permission of the owner, lessee, operator, or manager of the theatre, circus, athletic grounds, or place of public entertainment or amusement where the event occurs. If the owner, lessee, operator, or manager permits, in writing, a charge in excess of the box office price, the permission shall be limited to the sales of tickets at locations other than the box office where the event occurs.

(3) Except as provided in subsections (1) and (2), a person shall not establish an agency or suboffice for the sale of a seat ticket of admission to a theatre, circus, athletic grounds, or place of public entertainment or amusement at a price greater than the sale of a seat ticket at the box office of the theatre, circus, athletic grounds, place of public entertainment or amusement, or in excess of the advertised price of the seat ticket.

(4) Except as provided in subsections (1) and (2), the owner, lessee, operator, or occupant of a building, room, enclosure, or other place open to the public, who permits a person to sell or exhibit for sale in the building, room, enclosure, or other place open to the public, 1 or more tickets for a theatre, circus, athletic grounds, or place of public entertainment or amusement, for more than the price printed on the ticket, shall be liable and guilty equally as the person.

(5) If the owner, lessee, operator, or manager of a circus, theatre, athletic grounds, or place of public entertainment or amusement has sold a ticket or admission to a person, under restrictive conditions and at a less rate than the general admission charged, and whose name appears on the face of the ticket or is registered in the office of the owner, lessee, operator, or managers as the holder of the ticket and if it is printed on the face of the ticket that the ticket is nontransferable and sold only to the person whose name appears on the face of the ticket or is registered, the holder of the ticket shall not sell the ticket to another person, and a person selling the ticket shall be punished as provided in subsection (6).

(6) A person who violates this section is guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.465;—Am. 1979, Act 33, Imd. Eff. June 19, 1979.

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Former law: See sections 1 to 6 of Act 138 of 1907, being CL 1915, §§ 7152 to 7157; CL 1929, §§ 8894 to 8899.

750.465a Operation of audiovisual device in theatrical facility; prohibited conduct; violation; exception; definitions.

Sec. 465a. (1) A person who knowingly operates an audiovisual recording function of a device in a theatrical facility where a motion picture is being exhibited without the consent of the owner or lessee of that theatrical facility and of the licensor of the motion picture being exhibited is guilty of a crime as follows:

(a) Except as provided in subdivisions (b) and (c), the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $10,000.00, or both.

(b) If the person has 1 prior conviction for violating this subsection, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $20,000.00, or both.

(c) If the person has 2 or more prior convictions for violating this subsection, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $40,000.00, or both.

(2) This section does not prevent any lawfully authorized investigative, law enforcement, protective, or intelligence-gathering employee or agent, of this state or the United States, from operating the audiovisual recording function of a device in a theatrical facility where a motion picture is being exhibited as part of an investigative, protective, law enforcement, or intelligence-gathering activity.

(3) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law that proscribes conduct described in this section and that provides a greater penalty.

(4) As used in this section:

(a) "Audiovisual recording function" means the capability of a device to record or transmit a motion picture or any part of a motion picture by technological means.

(b) "Theatrical facility" means a facility being used to exhibit a motion picture to the public, but does not include an individual's residence or a retail establishment.

History: Add. 2004, Act 423, Eff. Mar. 15, 2005.

CHAPTER LXIX
PUBLIC HEALTH

750.466 Selling diseased or unwholesome provisions without notice.

Sec. 466. Any person who shall knowingly sell any kind of diseased, corrupted, or unwholesome provisions, whether for meat or drink, without making the same fully known to the buyer is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.466;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Ch. 159 of R.S. 1846, being CL 1857, § 5886; CL 1871, § 7726; How., § 9316; CL 1897, § 11404; CL 1915, § 15122; and CL 1929, § 16691.

750.467 Feeding animals or fowls putrid or unwholesome food.

Sec. 467. Feeding animals or fowls putrid or unwholesome food—Any person who shall feed to animals or fowls the flesh of an animal which has become sick, or which has died from such cause, or offal or flesh that is putrid or unwholesome, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.467.

Former law: See sections 1 and 2 of Act 179 of 1913, being CL 1915, §§ 15156 and 15157; CL 1929, §§ 5242 and 5243; and Act 8 of 1919.

750.468 Baked goods and pastries; sanitary and dust proof containers.

Sec. 468. Shipment of baked goods and pastries in sanitary and dust proof containers—It shall be unlawful for any person engaged in the manufacture of baked goods and pastries, by himself or his agent or employe to convey, ship or transport any baked goods or pastries from the place where such goods are manufactured to any place in this state where such baked goods and pastries are to be consumed or offered for sale, without first placing such baked goods and pastries in a clean and sanitary container or package sufficiently tight and compact to exclude all dust and dirt and other contamination. None of such containers or packages containing baked goods or pastries shall be opened or exposed to the dust or dirt or other contamination from the place where manufactured until they arrive in the place where such baked goods and pastries are to be consumed or exposed for sale.

Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.468.

Former law: See sections 1 and 2 of Act 320 of 1925, being CL 1929, §§ 5479 and 5480.

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750.469 Standard clinical thermometers.

Sec. 469. (1) Any person, dealer, agent or employe of any corporation, who shall directly or indirectly use, sell or offer for sale, give away or offer to give away, any standard clinical thermometer that does not comply with the definition stated in this section for a standard clinical thermometer, shall be guilty of a misdemeanor.

(2) A standard clinical thermometer is a certified thermometer that registers accurately at every reading and is in compliance with the rules promulgated by the board of pharmacy for all self-registering clinical thermometers commonly used for measuring body temperature. These thermometers shall not have a variance of over 2/10 of a degree at 98 degrees fahrenheit and 102 degrees fahrenheit nor by more than 3/10 of a degree at 106 degrees fahrenheit.

(3) The board of pharmacy shall make such rules as may be necessary for the enforcement of this section in accordance with Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Compiled Laws of 1948. The board of pharmacy shall investigate all complaints under this section and take all steps necessary to its enforcement. A person, dealer, or employe of any corporation shall not be prosecuted under the provisions of this section when he can establish a guarantee, signed by a wholesaler, jobber, manufacturer or other parties residing in this state, from whom such thermometers were purchased, to the effect that the clinical thermometers so purchased were certified to comply with subsection (2).

(4) In order to obtain certification by the Michigan board of pharmacy, a standard clinical thermometer shall meet the requirements of accuracy, lack of defects in construction, and other criteria provided in the rules promulgated by the board of pharmacy.

(5) Each manufacturer whose thermometers are approved for sale in this state on or before June 30 of each year, after the first year of his certification, shall renew his certificate by paying an annual fee of $50.00 to the state of Michigan directed to the Michigan board of pharmacy, in return for which a renewal certification shall be issued. In order to be actively engaged in the sale and distribution of thermometers each manufacturer must re-register within 30 days after June 30. A penalty of $50.00 shall be paid for failure to re-register by this date.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.469;—Am. 1972, Act 124, Imd. Eff. Apr. 27, 1972.

Former law: See sections 1 to 4 of Act 106 of 1927, being CL 1929, §§ 6863 to 6866.

Administrative rules: R 338.488 of the Michigan Administrative Code.

750.470 Cigarettes, cigars, or other tobacco products; sale or distribution through use of vending machines in places of public accommodation; prohibition; exceptions; violation as misdemeanor; penalty; enforcement.

Sec. 470. (1) Except as provided in subsection (2), a person, in a place of public accommodation to which access by minors is not prohibited by law, shall not sell or distribute cigarettes, cigars, or other tobacco products through the use of a vending machine, or install or maintain a vending machine with the intent of selling or distributing cigarettes, cigars, or other tobacco products. For purposes of this section, "place of public accommodation" has the same meaning as that term has in section 301(a) of the persons with disabilities civil rights act, 1976 PA 220, MCL 37.1301.

(2) This section does not apply to a cigarette vending machine that meets either of the following criteria:

(a) The cigarette vending machine is located in an establishment that has a class C license as defined in section 2t of the Michigan liquor control act, 1933 (Ex Sess) PA 8, MCL 436.2t, and 1 of the following applies:

(*i*) If the establishment has a bar that is located in a room that is separated from the remainder of the establishment by a wall and a doorway, the cigarette vending machine is located entirely in that room.

(*ii*) If the establishment has a bar that is not located in a room that is separated from the remainder of the establishment by a wall and a doorway, the cigarette vending machine is located not more than 20 feet from the bar, is located clearly within the bar area and not in a hallway, coat room, rest room, or similar unrelated area, and is under the direct visual supervision of an adult.

(b) The cigarette vending machine is located entirely in an area, office, plant, factory, or private membership club that is not open to the public, and is located not less than 20 feet from all entrances and exits that are accessible to the general public.

(3) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months, service to the community for a period of not more than 45 days, or a fine of not more than $1,000.00, or any combination of imprisonment, community service, or fine. Each day that a person has a vending machine that dispenses cigarettes, cigars, or other tobacco products constitutes a separate offense.

(4) The provisions of this section shall be enforceable by a local health department to the same extent and by the same means as regulations adopted by that local health department.

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History: Add. 1992, Act 271, Eff. June 16, 1993;—Am. 1998, Act 38, Imd. Eff. Mar. 18, 1998.

Compiler's note: Former § 750.470, which pertained to employment of persons with infections or venereal disease in cigar or food establishments, was repealed by Act 368 of 1978, Eff. Sept. 30, 1978.

750.471 Transportation of dressed calves, sheep, hogs, and beeves; violation of act, misdemeanor.

Sec. 471. Transportation of dressed calves, sheep, hogs and beeves—All dressed calves, sheep, hogs and beeves, or any portion of the same, when being shipped or transported by freight or express, shall be kept in a clean and sanitary manner. Any carcass, or any portion thereof, which shall be transported in any car, shall when practicable be hung in such car during such transportation. Such carcass, when tendered for shipment, shall be covered with clean covers of cloth of such texture as to exclude all dirt and dust: Provided, This shall not apply to carcasses shipped with the hides left on.

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

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.471.

Former law: See sections 1 and 2 of Act 90 of 1917, being CL 1929, §§ 5461 and 5462.

750.472 Repealed. 1978, Act 368, Eff. Sept. 30, 1978.

Compiler's note: The repealed section pertained to treating eyes of newly born infants.

750.473 Use of tobacco product on school property prohibited; violation as misdemeanor; definitions; applicability of subsection (1) to outdoor areas.

Sec. 473. (1) Except as otherwise provided in subsection (4), a person shall not use a tobacco product on school property.

(2) A person who violates subsection (1) is guilty of a misdemeanor, punishable by a fine of not more than $50.00.

(3) As used in this section:

(a) "School district" means a school district, local act school district, or intermediate school district, as those terms are defined in the school code of 1976, Act No. 451 of the Public Acts of 1976, being sections 380.1 to 380.1852 of the Michigan Compiled Laws; a joint high school district formed under part 3A of Act No. 451 of the Public Acts of 1976, being sections 380.171 to 380.187 of the Michigan Compiled Laws; or a consortium or cooperative arrangement consisting of any combination of these.

(b) "School property" means a building, facility, or structure and other real estate owned, leased, or otherwise controlled by a school district.

(c) "Tobacco product" means a preparation of tobacco to be inhaled, chewed, or placed in a person's mouth.

(d) "Use a tobacco product" means any of the following:

(*i*) The carrying by a person of a lighted cigar, cigarette, pipe, or other lighted smoking device.

(*ii*) The inhaling or chewing of a tobacco product.

(*iii*) The placing of a tobacco product within a person's mouth.

(4) Subsection (1) does not apply to that part of school property consisting of outdoor areas including, but not limited to, an open-air stadium, during either of the following time periods:

(a) Saturdays, Sundays, and other days on which there are no regularly scheduled school hours.

(b) After 6 p.m. on days during which there are regularly scheduled school hours.

History: Add. 1993, Act 140, Eff. Sept. 1, 1993.

750.474-750.477 Repealed. 1978, Act 368, Eff. Sept. 30, 1978.

Compiler's note: The repealed sections pertained to exposing others to communicable disease, drinking cups at public fountains, expectorating on floors, and free distribution of medicine.

750.477a Horse and dog meat; unlawful to sell not labelled; violation of section, misdemeanor.

Sec. 477a. Horse and dog meat—Any person who shall knowingly sell any horse or dog meat unless plainly labelled shall be guilty of a misdemeanor.

History: Add. 1943, Act 116, Eff. July 30, 1943;—CL 1948, 750.477a.

CHAPTER LXX
PUBLIC OFFICES AND OFFICERS

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750.478 Willful neglect of duty; public officer or person holding public trust or employment; penalty.

Sec. 478. When any duty is or shall be enjoined by law upon any public officer, or upon any person holding any public trust or employment, every willful neglect to perform such duty, where no special provision shall have been made for the punishment of such delinquency, constitutes a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.478;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 25 of Ch. 156 of R.S. 1846, being CL 1857, § 5844; CL 1871, § 7677; How., § 9259; CL 1897, § 11329; CL 1915, § 14996; and CL 1929, § 16587.

750.478a Legal process; intimidation, hindering, or obstruction of public officer or employee.

Sec. 478a. (1) A person shall not attempt to intimidate, hinder, or obstruct a public officer or public employee or a peace officer in the discharge of his or her official duties by a use of unauthorized process.

(2) Except as provided in subsection (3), a person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than $1,000.00, or both.

(3) A person who violates subsection (1) after 1 or more prior convictions for violating subsection (1) 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.

(4) This section does not apply to a lien authorized under a statute of this state.

(5) This section does not prohibit a person from being charged with, convicted of, or sentenced for any other violation of law that individual commits while violating this section.

(6) This section does not prohibit individuals from assembling lawfully or lawful free expression of opinions or designation of group affiliation or association.

(7) As used in this section:

(a) "Lawful tribunal" means a tribunal created, established, authorized, or sanctioned by law or a tribunal of a private organization, association, or entity to the extent that the organization, association, or entity seeks in a lawful manner to affect only the rights or property of persons who are members or associates of that organization, association, or entity.

(b) "Legal process" means a summons, complaint, pleading, writ, warrant, injunction, notice, subpoena, lien, order, or other document issued or entered by or on behalf of a court or lawful tribunal or lawfully filed with or recorded by a governmental agency that is used as a means of exercising or acquiring jurisdiction over a person or property, to assert or give notice of a legal claim against a person or property, or to direct persons to take or refrain from an action.

(c) "Public employee" means an employee of this state, an employee of a city, village, township, or county of this state, or an employee of a department, board, agency, institution, commission, authority, division, council, college, university, court, school district, intermediate school district, special district, or other public entity of this state or of a city, village, township, or county in this state, but does not include a person whose employment results from election or appointment.

(d) "Public officer" means a person who is elected or appointed to any of the following:

(*i*) An office established by the state constitution of 1963.

(*ii*) A public office of a city, village, township, or county in this state.

(*iii*) A department, board, agency, institution, commission, court, authority, division, council, college, university, school district, intermediate school district, special district, or other public entity of this state or a city, village, township, or county in this state.

(e) "Unauthorized process" means either of the following:

(*i*) A document simulating legal process that is prepared or issued by or on behalf of an entity that purports or represents itself to be a lawful tribunal or a court, public officer, or other agency created, established, authorized, or sanctioned by law but that is not a lawful tribunal or a court, public officer, or other agency created, established, authorized, or sanctioned by law.

(*ii*) A document that would otherwise be legal process except that it was not issued or entered by or on behalf of a court or lawful tribunal or lawfully filed with or recorded by a governmental agency as required by law. However, this subparagraph does not apply to a document that would otherwise be legal process but for 1 or more technical defects, including, but not limited to, errors involving names, spelling, addresses, or time of issue or filing or other defects that do not relate to the substance of the claim or action underlying the document.

History: Add. 1998, Act 360, Eff. Jan. 1, 1999.

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750.479 Resisting or obstructing officer in discharge of duty; penalty; definitions.

Sec. 479. (1) A person shall not knowingly and willfully do any of the following:

(a) Assault, batter, wound, obstruct, or endanger a medical examiner, township treasurer, judge, magistrate, probation officer, parole officer, prosecutor, city attorney, court employee, court officer, or other officer or duly authorized person serving or attempting to serve or execute any process, rule, or order made or issued by lawful authority or otherwise acting in the performance of his or her duties.

(b) Assault, batter, wound, obstruct, or endanger an officer enforcing an ordinance, law, rule, order, or resolution of the common council of a city board of trustees, the common council or village council of an incorporated village, or a township board of a township.

(2) Except as provided in subsections (3), (4), and (5), a person who violates this section is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(3) A person who violates this section and by that violation causes a bodily injury requiring medical attention or medical care to an individual described in this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

(4) A person who violates this section and by that violation causes serious impairment of a body function of an individual described in this section 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.

(5) A person who violates this section and by that violation causes the death of an individual described in this section is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both.

(6) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

(7) The court may order a term of imprisonment for a violation of this section to be served consecutively to any other term of imprisonment imposed for a violation arising out of the same criminal transaction as the violation of this section.

(8) As used in this section:

(a) "Obstruct" includes the use or threatened use of physical interference or force or a knowing failure to comply with a lawful command.

(b) "Serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.479;—Am. 2002, Act 270, Eff. July 15, 2002.

Former law: See section 23 of Ch. 156 of R.S. 1846, being CL 1857, § 5842; CL 1871, § 7675; How., § 9257; CL 1897, § 11327; CL 1915, § 14994; CL 1929, § 16585; Act 202 of 1863; and Act 24 of 1869.

750.479a Failure to obey direction of police or conservation officer to stop motor vehicle; applicability of subsection (1); fleeing and eluding as felony; penalty; suspension of license; revocation; conviction and sentence under other provision; "serious impairment of a body function" defined.

Sec. 479a. (1) A driver of a motor vehicle who is given by hand, voice, emergency light, or siren a visual or audible signal by a police or conservation officer, acting in the lawful performance of his or her duty, directing the driver to bring his or her motor vehicle to a stop shall not willfully fail to obey that direction by increasing the speed of the vehicle, extinguishing the lights of the vehicle, or otherwise attempting to flee or elude the police or conservation officer. This subsection does not apply unless the police or conservation officer giving the signal is in uniform and the officer's vehicle is identified as an official police or department of natural resources vehicle.

(2) Except as provided in subsection (3), (4), or (5), an individual who violates subsection (1) is guilty of fourth-degree fleeing and eluding, a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(3) Except as provided in subsection (4) or (5), an individual who violates subsection (1) is guilty of third-degree fleeing and eluding, a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both, if 1 or more of the following circumstances apply:

(a) The violation results in a collision or accident.

(b) A portion of the violation occurred in an area where the speed limit is 35 miles an hour or less, whether that speed limit is posted or imposed as a matter of law.

(c) The individual has a prior conviction for fourth-degree fleeing and eluding, attempted fourth-degree fleeing and eluding, or fleeing and eluding under a current or former law of this state prohibiting substantially similar conduct.

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(4) Except as provided in subsection (5), an individual who violates subsection (1) is guilty of second-degree fleeing and eluding, a felony punishable by imprisonment for not more than 10 years or a fine of not more than $10,000.00, or both, if 1 or more of the following circumstances apply:

(a) The violation results in serious impairment of a body function of an individual.

(b) The individual has 1 or more prior convictions for first-, second-, or third-degree fleeing and eluding, attempted first-, second-, or third-degree fleeing and eluding, or fleeing and eluding under a current or former law of this state prohibiting substantially similar conduct.

(c) The individual has any combination of 2 or more prior convictions for fourth-degree fleeing and eluding, attempted fourth-degree fleeing and eluding, or fleeing and eluding under a current or former law of this state prohibiting substantially similar conduct.

(5) If the violation results in the death of another individual, an individual who violates subsection (1) is guilty of first-degree fleeing and eluding, a felony punishable by imprisonment for not more than 15 years or a fine of not more than $15,000.00, or both.

(6) Upon a conviction for a violation or attempted violation under subsection (2) or (3), the secretary of state shall suspend the individual's operator's or chauffeur's license as provided in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319.

(7) Upon a conviction for a violation or attempted violation under subsection (4) or (5), the secretary of state shall revoke the individual's operator's or chauffeur's license as provided in section 303 of the Michigan vehicle code, 1949 PA 300, MCL 257.303.

(8) Except as otherwise provided, a conviction under this section does not prohibit a conviction and sentence under any other applicable provision for conduct arising out of the same transaction. A conviction under subsection (2), (3), (4), or (5) prohibits a conviction under section 602a of the Michigan vehicle code, 1949 PA 300, MCL 257.602a, for conduct arising out of the same transaction.

(9) As used in this section, "serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

History: Add. 1966, Act 299, Eff. Mar. 10, 1967;—Am. 1988, Act 407, Eff. Mar. 30, 1989;—Am. 1996, Act 586, Eff. June 1, 1997;—Am. 1998, Act 344, Eff. Oct. 1, 1999;—Am. 2002, Act 270, Eff. July 15, 2002.

750.479b Taking of firearm or other weapon from peace officer or corrections officer; penalty; commission of other violation; consecutive terms of imprisonment; definitions.

Sec. 479b. (1) An individual who takes a weapon other than a firearm from the lawful possession of a peace officer or a corrections officer is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both, if all of the following circumstances exist at the time the weapon is taken:

(a) The individual knows or has reason to believe the person from whom the weapon is taken is a peace officer or a corrections officer.

(b) The peace officer or corrections officer is performing his or her duties as a peace officer or a corrections officer.

(c) The individual takes the weapon without consent of the peace officer or corrections officer.

(d) The peace officer or corrections officer is authorized by his or her employer to carry the weapon in the line of duty.

(2) An individual who takes a firearm from the lawful possession of a peace officer or a corrections officer is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $5,000.00, or both, if all of the following circumstances exist at the time the firearm is taken:

(a) The individual knows or has reason to believe the person from whom the firearm is taken is a peace officer or a corrections officer.

(b) The peace officer or corrections officer is performing his or her duties as a peace officer or a corrections officer.

(c) The individual takes the firearm without the consent of the peace officer or corrections officer.

(d) The peace officer or corrections officer is authorized by his or her employer to carry the firearm in the line of duty.

(3) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

(4) A term of imprisonment imposed for a violation of this section may run consecutively to any term of imprisonment imposed for another violation arising from the same transaction.

(5) As used in this section:

(a) "Corrections officer" means a prison or jail guard or other employee of a jail or a state or federal correctional facility, who performs duties involving the transportation, care, custody, or supervision of

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prisoners.

(b) "Peace officer" means 1 or more of the following:

(*i*) A police officer of this state or a political subdivision of this state.

(*ii*) A police officer of any entity of the United States.

(*iii*) The sheriff of a county of this state or the sheriff's deputy.

(*iv*) A public safety officer of a college or university who is authorized by the governing board of that college or university to enforce state law and the rules and ordinances of that college or university.

(*v*) A conservation officer of the department of natural resources.

(*vi*) A conservation officer of the United States department of interior.

History: Add. 1994, Act 33, Eff. June 1, 1994.

750.480 Refusing to deliver records and money to successor in office.

Sec. 480. Refusing to deliver books, money, etc., to successor in office—Any officer or agent of this state or of any county, city, village, township or school district within the state, into whose hands money, books, papers, evidence of debt or other property shall come by virtue of his office or agency, who shall wilfully refuse or neglect, on demand, to deliver the same to his successor in office or to the person authorized by law to receive or have charge of the same, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.480.

Former law: See Section 28 of Ch. 154 of R.S. 1846, being CL 1857, § 5772; CL 1871, § 7579; How., § 9150; CL 1897, § 11564; CL 1915, § 15309; CL 1929, § 16907; and Act 68 of 1895.

750.481 Neglecting or refusing to execute process; penalty.

Sec. 481. Neglecting or refusing to execute process—Whenever any constable, marshal, deputy or assistant marshal, coroner, sheriff or deputy sheriff of any township, city, village or county, shall at any time wilfully neglect or refuse to execute any lawful process of any court, or judicial officer having authority to issue the same, and which shall be duly issued, or whenever such officer shall, at any time, wilfully neglect or refuse to discharge or execute any special duty imposed on any such officer by any provision of law, such officer shall be guilty of a misdemeanor: Provided, That in all cases where such process shall be taken out in the name of a party, other than the people of this state, it shall appear on the trial for such offense that the legal fees for serving such process have been tendered or paid to such officer.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.481.

Former law: See section 1 of Act 9 of 1861, being CL 1871, § 7680; How., § 9262; CL 1897, § 11332; CL 1915, § 14999; and CL 1929, § 16594.

750.482 Neglecting or refusing to pay over moneys collected; penalty.

Sec. 482. Any officer who shall collect or receive any moneys on account of any fine, penalty, forfeiture, or recognizance, and shall neglect or refuse to pay over the same according to law, or shall appropriate or dispose of the same to his or her own use, or in any manner not authorized by law, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.482;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 41 of Chapter 35 of Act 314 of 1915, being CL 1915, § 13433; and CL 1929, § 15180.

750.483 Neglecting or refusing to aid sheriff, coroner or constable; misdemeanor.

Sec. 483. Neglecting or refusing to aid sheriff, etc.—Any person who being required by any sheriff, deputy sheriff, coroner or constable, shall neglect or refuse to assist him in the execution of his office, in any criminal case or in the preservation of the peace, or the apprehending or securing of any person for a breach of the peace, or in any case of escape or rescue of persons arrested upon civil process, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.483.

Former law: See section 16 of Ch. 156 of R.S. 1846, being CL 1857, § 5835; CL 1871, § 7668; How., § 9250; CL 1897, § 11320; CL 1915, § 14987; and CL 1929, § 16578.

750.483a Prohibited acts; penalties; "retaliate,""official proceeding," and "threaten or intimidate" defined.

Sec. 483a. (1) A person shall not do any of the following:

(a) Withhold or refuse to produce any testimony, information, document, or thing after the court has ordered it to be produced following a hearing.

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(b) Prevent or attempt to prevent through the unlawful use of physical force another person from reporting a crime committed or attempted by another person.

(c) Retaliate or attempt to retaliate against another person for having reported or attempted to report a crime committed or attempted by another person. As used in this subsection, "retaliate" means to do any of the following:

(*i*) Commit or attempt to commit a crime against any person.

(*ii*) Threaten to kill or injure any person or threaten to cause property damage.

(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 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 violation involves committing or attempting to commit a crime or a threat to kill or injure any person or to cause property damage, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $20,000.00, or both.

(3) A person shall not do any of the following:

(a) Give, offer to give, or promise anything of value to any person to influence a person's statement to a police officer conducting a lawful investigation of a crime or the presentation of evidence to a police officer conducting a lawful investigation of a crime.

(b) Threaten or intimidate any person to influence a person's statement to a police officer conducting a lawful investigation of a crime or the presentation of evidence to a police officer conducting a lawful investigation of a crime.

(4) A person who violates subsection (3) is guilty of a crime as follows:

(a) Except as provided in subdivision (b), the person 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.

(b) If the violation involves committing or attempting to commit a crime or a threat to kill or injure any person or to cause property damage, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $20,000.00, or both.

(5) A person shall not do any of the following:

(a) Knowingly and intentionally remove, alter, conceal, destroy, or otherwise tamper with evidence to be offered in a present or future official proceeding.

(b) Offer evidence at an official proceeding that he or she recklessly disregards as false.

(6) A person who violates subsection (5) 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 4 years or a fine of not more than $5,000.00, or both.

(b) If the violation is committed in a criminal case for which the maximum term of imprisonment for the violation is more than 10 years, or the violation is punishable by imprisonment for life or any term of years, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $20,000.00, or both.

(7) It is an affirmative defense under subsection (3), for which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to provide a statement or evidence truthfully.

(8) Subsections (1)(a), (3)(b), and (5)(b) do not apply to any of the following:

(a) The lawful conduct of an attorney in the performance of his or her duties, such as advising a client.

(b) The lawful conduct or communications of a person as permitted by statute or other lawful privilege.

(9) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of this section.

(10) The court may order a term of imprisonment imposed for a violation of this section to be served consecutively to a term of imprisonment imposed for any other crime including any other violation of law arising out of the same transaction as the violation of this section.

(11) As used in this section:

(a) "Official proceeding" means a proceeding heard before a legislative, judicial, administrative, or other governmental agency or official authorized to hear evidence under oath, including a referee, prosecuting attorney, hearing examiner, commissioner, notary, or other person taking testimony or deposition in that proceeding.

(b) "Threaten or intimidate" does not mean a communication regarding the otherwise lawful access to courts or other branches of government, such as the lawful filing of any civil action or police report of which the purpose is not to harass the other person in violation of section 2907 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2907.

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History: Add. 2000, Act 451, Eff. Mar. 28, 2001.

750.484 Repealed. 1991, Act 145, Imd. Eff. Nov. 25, 1991.

Compiler's note: The repealed section pertained to refusal to apprehend when required by justice.

750.485 Accounting for county money; county and municipal officers.

Sec. 485. Accounting for county money by county and municipal officers—It shall be the duty of all county and municipal officers, who may receive or pay out any sum or sums of money belonging to the county in which said officers may reside, to keep an accurate and perfect account of all such moneys, by whom paid and for what purpose, as the board of supervisors of the several counties of this state, or by the board of auditors, wherever authorized to transact such county business, may direct. The several boards of supervisors and board of county auditors are hereby authorized and directed to prepare a system for the keeping of such accounts, and report to the county treasurer, as the several boards may deem proper and necessary in each of the several counties of this state.

Whenever the board of supervisors or board of county auditors may prescribe a system for the keeping of such accounts, as provided for by this section, said county and municipality shall comply with requirements of such system in all particulars, as directed to do by said boards of supervisors or boards of county auditors.

Any county or municipal officer who may be included under the provisions of this section, who shall neglect or refuse to comply with any of the provisions of this section, in the keeping of such accounts as may be prescribed by said county boards, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.485.

Former law: See sections 1 to 3 of Act 237 of 1901, being CL 1915, §§ 2517 to 2519; and CL 1929, §§ 2708 to 2710.

750.486 Repealed. 2002, Act 264, Imd. Eff. May 9, 2002.

Compiler's note: The repealed section pertained to appointment of unqualified undersheriff or deputy sheriff.

750.487 Defense of accused by law partner of prosecutor.

Sec. 487. Defense of persons charged with crime by law partner of prosecuting attorney—The law partner or partners of any prosecuting attorney who shall be directly or indirectly engaged or interested in the defense of any person or persons charged with any offense, when it is the duty of such prosecuting attorney in his official capacity to prosecute such person or persons, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.487.

Former law: See sections 16 and 17 of Chapter XVI of Act 175 of 1927, being CL 1929, §§ 17506 and 17507.

750.488 Retention of fees by state officers and employees on salary.

Sec. 488. Retention of fees by state officers and employees on salary—Any officer or employe of the state government, having a salary fixed by law who shall retain any fees received for performance of his official duties, or who shall not promptly turn over to the state treasurer or credit to the proper funds such fees when collected, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years or by a fine of not more than 1,000 dollars. Any one convicted under the provisions of this section shall be promptly removed from office.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.488.

750.489 False statement of public finances and transfer of same.

Sec. 489. False statement of public finances and transfer of same—Any officer, agent, servant or employe of the state of Michigan, or of any county, township, city, village or school district of this state, and any member, agent or employe of any board or commission of the state of Michigan or of any of the municipalities above named, who shall knowingly deliver, publish or give out for publication any false statement relating to the finances, funds, moneys or balances in any fund of said state, county, township, city, village or school district, shall be guilty of a misdemeanor.

Any officer, agent, servant or employe of the state of Michigan, or of any county, township, city, village or school district of this state, and any member, agent or employe of any board or commission of the state of Michigan or of any of the municipalities above named, who shall transfer or juggle the funds of the state or other municipal division thereof, or issue false checks, drafts, warrants, vouchers or other evidences of credit, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.489.

Former law: See sections 1 to 3 of Act 291 of 1927, being CL 1929, §§ 381 to 383.

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750.490 Safe keeping of public moneys.

Sec. 490. Safe keeping of public moneys—All moneys which shall come into the hands of any officer of the state, or of any officer of any county, or of any township, school district, highway district, city or village, or of any other municipal or public corporation within this state, pursuant to any provision of law authorizing such officer to receive the same, shall be denominated public moneys within the meaning of this section.

It shall be the duty of every officer charged with the receiving, keeping or disbursing of public moneys to keep the same separate and apart from his own money, and he shall not commingle the same with his own money, nor with the money of any other person, firm, or corporation.

No such officer shall, under any pretext, use, or allow to be used, any such moneys for any purpose other than in accordance with the provisions of law; nor shall he use the same for his own private use, nor loan the same to any person, firm or corporation without legal authority so to do.

In all cases where public moneys are authorized to be deposited in any bank, or to be loaned to any individual, firm or corporation, for interest, the interest accruing upon such public moneys shall belong to and constitute a general fund of the state, county or other public or municipal corporation, as the case may be.

In no case shall any such officer, directly or indirectly, receive any pecuniary or valuable consideration as an inducement for the deposit of any public moneys with any particular bank, person, firm or corporation.

The provisions of this section shall apply to all deputies of such officer or officers, and to all clerks, agents and servants of such officer or officers.

Any officer who shall wilfully or corruptly draw or issue any warrant, order or certificate for the payment of money in excess of the amount authorized by law, or for a purpose not authorized by law, shall be guilty of a misdemeanor, punishable as provided in this section.

Any person who shall violate any of the provisions of this section, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years or by a fine of not more than 1,000 dollars: Provided, That nothing in this section contained shall prevent a prosecution for embezzlement in cases where the facts warrant the same.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.490.

Former law: See sections 1 to 8 of Act 131 of 1875, being How., §§ 423 to 430; CL 1897, §§ 1197 to 1204; CL 1915, §§ 298 to 305; and CL 1929, §§ 358 to 365.

750.490a Purchase by employee upon public credit for private use.

Sec. 490a. An officer or employee of any governmental agency shall not purchase or cause to be purchased any goods, wares, or merchandise of any description in the name of or on the credit of the governmental agency for any other purpose than for use or resale in the regular course of the official business of the governmental agency; or sell or offer for sale goods, wares, or merchandise purchased in the name of or on the credit of the governmental agency, at any price other than the price at which such goods are offered generally to the public by the governmental agency.

As used in this section, "governmental agency" means any and all branches or departments of the state government; any and all branches or departments of the government of any county, city, village, school district, township, or other municipal corporation in this state; and any commission, board, or other similar body organized to assist in the conduct of the governmental or proprietary functions of state or local government.

Any person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500.00, or both.

History: Add. 1939, Act 310, Eff. Sept. 29, 1939;—CL 1948, 750.490a;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

CHAPTER LXXI
PUBLIC RECORDS

750.491 Public records; removal, mutilation or destruction; penalty.

Sec. 491. All official books, papers or records created by or received in any office or agency of the state of Michigan or its political subdivisions, are declared to be public property, belonging to the people of the state of Michigan. All books, papers or records shall be disposed of only as provided in section 13c of Act No. 51 of the Public Acts of the First Extra Session of 1948, as added, being section 18.13c of the Compiled Laws of 1948, section 5 of Act No. 271 of the Public Acts of 1913, as amended, being section 399.5 of the Compiled Laws of 1948 and sections 2137 and 2138 of Act No. 236 of the Public Acts of 1961, being sections 600.2137 and 600.2138 of the Compiled Laws of 1948.

Any person who shall wilfully carry away, mutilate or destroy any of such books, papers, records or any part of the same, and any person who shall retain and continue to hold the possession of any books, papers or

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records, or parts thereof, belonging to the aforesaid offices and shall refuse to deliver up such books, papers, records, or parts thereof to the proper officer having charge of the office to which such books, papers, or records belong, upon demand being made by such officer or, in cases of a defunct office, the Michigan historical commission, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years or by a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.491;—Am. 1952, Act 119, Eff. Sept. 18, 1952;—Am. 1964, Act 147, Eff. Aug. 28, 1964.

Former law: See section 1 of Act 6 of 1851, being CL 1857, § 5906; CL 1871, § 7751; How., § 9347; CL 1897, § 11361; CL 1915, § 15079; CL 1929, § 17018; and Act 208 of 1875.

750.492 Public records; inspection; use; copying; removal.

Sec. 492. Any officer having the custody of any county, city, or township records in this state who shall when requested fail or neglect to furnish proper and reasonable facilities for the inspection and examination of the records and files in his or her office and for making memoranda of transcripts therefrom during the usual business hours, which shall not be less than 4 hours per day, to any person having occasion to make examination of them for any lawful purpose is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00. The custodian of said records and files may make such reasonable rules with reference to the inspection and examination of them as shall be necessary for the protection of said records and files and to prevent interference with the regular discharge of the duties of such officer. The officer shall prohibit the use of pen and ink in making copies or notes of records and files in his or her office. No books, records, and files shall be removed from the office of the custodian thereof, except by the order of the judge of any court of competent jurisdiction, or in response to a subpoena duces tecum issued therefrom, or for audit purposes conducted pursuant to 1919 PA 71, MCL 21.41 to 21.55, 1929 PA 52, MCL 14.141 to 14.145, or 1968 PA 2, MCL 141.421 to 141.440a, with the permission of the official having custody of the records if the official is given a receipt listing the records being removed.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.492;—Am. 1970, Act 109, Imd. Eff. July 23, 1970;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 1 and 2 of Act 92 of 1899, being CL 1915, §§ 3449 and 3450; and CL 1929, §§ 2713 and 2714.

750.492a Placing misleading or inaccurate information in medical records or charts; alteration or destruction of medical records or charts; penalties; applicability of subsections (1) and (2); basis for civil action for damages not created.

Sec. 492a. (1) Except as otherwise provided in subsection (3), a health care provider or other person, knowing that the information is misleading or inaccurate, shall not intentionally, willfully, or recklessly place or direct another to place in a patient's medical record or chart misleading or inaccurate information regarding the diagnosis, treatment, or cause of a patient's condition. A violation of this subsection is punishable as follows:

(a) A health care provider who intentionally or willfully violates this subsection is guilty of a felony.

(b) A health care provider who recklessly violates this subsection 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.

(c) A person other than a health care provider who intentionally or willfully violates this subsection 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.

(d) A person other than a health care provider who recklessly violates this subsection is guilty of a misdemeanor.

(2) Except as otherwise provided in subsection (3), a health care provider or other person shall not intentionally or willfully alter or destroy or direct another to alter or destroy a patient's medical records or charts for the purpose of concealing his or her responsibility for the patient's injury, sickness, or death. A health care provider who violates this subsection is guilty of a felony. A person other than a health care provider who violates this subsection 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) Subsections (1) and (2) do not apply to either of the following:

(a) Destruction of a patient's original medical record or chart if all of the information contained in or on the medical record or chart is otherwise retained by means of mechanical or electronic recording, chemical reproduction, or other equivalent techniques that accurately reproduce all of the information contained in or on the original or by reproduction pursuant to the records media act that accurately reproduces all of the information contained in or on the original.

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(b) Supplementation of information or correction of an error in a patient's medical record or chart in a manner that reasonably discloses that the supplementation or correction was performed and that does not conceal or alter prior entries.

(4) This section does not create or provide a basis for a civil cause of action for damages.

History: Add. 1986, Act 184, Eff. Mar. 31, 1987;—Am. 1992, Act 210, Imd. Eff. Oct. 5, 1992.

CHAPTER LXXII
PUBLIC SAFETY

750.493 Protection of exploration; pits and holes.

Sec. 493. Protection of exploration pits and holes—Any person who shall sink, dig or cause to be sunk or dug, any shaft, pit, hole or trench on any uninclosed or unoccupied land within this state to a depth of 4 feet or more, for the purpose of exploring for minerals or making other discoveries, and shall fail and neglect to fill the same or erect or cause to be erected and maintain or cause to be maintained around the same a good substantial fence or enclosure not less than 4 feet high, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.493.

Former law: See sections 1 and 2 of Act 188 of 1885, being How., §§ 9120a and 9120b; CL 1897, §§ 11527 and 11528; CL 1915, §§ 15266 and 15267; and CL 1929, §§ 16805 and 16806.

750.493a Placing or throwing glass or other debris on beach or public highway.

Sec. 493a. Any person who shall place or throw glass or other dangerous pointed or edged substances in or on any beach or waters adjacent thereto, highway, or walk, or on public property within 50 feet of a public highway, shall be guilty of a misdemeanor.

History: Add. 1949, Act 50, Eff. Sept. 23, 1949.

750.493b Well or cistern; abandoning or failing to keep safely covered or fenced; depth and width.

Sec. 493b. Any person who shall knowingly abandon or fail to keep safely covered or fenced any well or cistern of a depth of 4 feet or more and with a top width of 12 inches or more on property owned or occupied by such person shall be guilty of a misdemeanor.

History: Add. 1949, Act 237, Eff. Sept. 23, 1949.

750.493c Excavation or basement; failure to cover or fence.

Sec. 493c. Any person who shall hereafter dig or cause to be dug an excavation or a partially constructed basement for any building or structure, and who shall fail to cover or safely fence the same within a period of 90 days after such excavation has been commenced shall be deemed guilty of a misdemeanor.

History: Add. 1952, Act 102, Eff. Sept. 18, 1952.

750.493d Icebox or refrigerator; abandoned without removing snaplock or locking device, penalty.

Sec. 493d. Any person who knowingly leaves, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container of a kind and size sufficient to permit the entrapment and suffocation of a child therein, without first removing the snaplock or other locking device from the lid or cover thereof, is guilty of a misdemeanor.

History: Add. 1954, Act 135, Imd. Eff. Apr. 23, 1954;—Am. 1966, Act 68, Imd. Eff. June 9, 1966.

750.493e Jumping or diving from public bridge or overpass as misdemeanor; effective date of section.

Sec. 493e. (1) A person shall not jump or dive from a public bridge or overpass.

(2) A person who violates subsection (1) is guilty of a misdemeanor.

(3) This section shall not take effect until April 1, 1983.

History: Add. 1982, Act 238, Eff. Apr. 1, 1983.

750.494 Repealed. 2002, Act 262, Imd. Eff. May 1, 2002.

Compiler's note: The repealed section pertained to bells on sleighs and cutters in Upper Peninsula.

750.495 Shafting; erection to protect public.

Sec. 495. Shafting to be erected to protect public—All shafting put up for the running of machinery on exhibition in this state, where the public are invited to assemble, shall be so put up as to prevent any person or

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persons coming in contact with the same.

Any person or persons using shafting as named in this section, who shall refuse or neglect to comply with the same before setting said shafting in motion for exhibition, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.495.

Former law: See sections 1 and 2 of Act 156 of 1885, being How., §§ 2102q and 2102r; CL 1897, §§ 5550 and 5551; CL 1915, §§ 7219 and 7220; and CL 1929, §§ 8890 and 8891.

750.495a Damage to saws or wood manufacturing or processing equipment.

Sec. 495a. (1) A person who drives or places in or on any tree or wood product, without the prior consent of the owner, any iron, steel, or other substance sufficiently hard to damage saws or wood manufacturing or processing equipment with the intent to cause inconvenience, annoyance, or alarm to any other person is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or by a fine of not more than $500.00, or both.

(2) A person who drives or places in or on any tree or wood product, without the prior consent of the owner, any iron, steel, or other substance sufficiently hard to damage saws or wood manufacturing or processing equipment with the intent to cause inconvenience, annoyance, or alarm to any other person, and who, by doing so, causes injury to a person, is guilty of a felony, punishable by imprisonment for not more than 4 years, or by a fine of not more than $2,500.00, or both.

(3) A person who drives or places in or on any tree or wood product, without the prior consent of the owner, any iron, steel, or other substance sufficiently hard to damage saws or wood manufacturing or processing equipment with the intent to cause inconvenience, annoyance, or alarm to any other person, and who, by doing so, causes death to a person, is guilty of a felony, punishable by imprisonment for not more than 15 years, or by a fine of not more than $7,500.00, or both.

(4) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

(5) This section does not prohibit a landowner from attaching an alarm system to a tree, or authorizing an individual to attach an alarm system to a tree, on the landowner's property.

History: Add. 1996, Act 100, Eff. May 1, 1996.

750.496 Hotel or place of public abode; setting fire; posting notice.

Sec. 496. Any person who shall carelessly, recklessly or negligently set fire to any hotel, rooming house, lodging house or any place of public abode, or to any bedding, furniture, curtains, drapes, or other furnishings therein so as to endanger life or property in any way, shall be guilty of a misdemeanor.

In each sleeping room of all hotels, rooming houses, lodging houses and other places of public abode, a plainly written notice shall be posted in a conspicuous place as notice of the provisions of this act.

History: Add. 1947, Act 17, Eff. Oct. 11, 1947;—CL 1948, 750.496.

Former law: See sections 1 and 2 of Act 13 of 1919, being CL 1929, §§ 4774 and 4775.

750.497 Detouring traffic as public safety measure; notices, posting.

Sec. 497. Detouring traffic as public safety measure—Whenever in the opinion of the state highway commissioner a condition arises or is about to arise upon any of the highways of the state occasioned by the condition of said highway or by any approaching public gathering likely to bring unusual congestion of traffic thereon, and the public safety of persons using or about to use said highway is put in jeopardy, the state highway commissioner is hereby authorized by an appropriate order, to detour the traffic from or upon, provide the direction for any or all traffic, close to any or all traffic, or limit the traffic on said highway to certain classes of vehicles, under such conditions as he may in such order provide on any of the highways of the state of Michigan for such length of time as he may deem necessary.

Whenever the state highway commissioner shall make any order in any way regulating or closing traffic on any highways of this state under the authority of this section, he shall cause to be posted upon said highway in conspicuous places at each terminal of the restricted or closed highway, conspicuous notices of such regulations or closing order.

Any person violating any of the provisions of said order, or using said highway in any manner prohibited in said order after and during the time that notices of said order shall be properly posted as herein provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than 10 dollars or by imprisonment in the county jail for not more than 10 days, or by both such fine and imprisonment in the discretion of the court.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1937, Act 221, Eff. Oct. 29, 1937;—CL 1948, 750.497.

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Former law: See sections 1 to 3 of Act 302 of 1929, being CL 1929, §§ 4629 to 4631.

750.498 Erection of traffic signals by township boards on trunk lines.

Sec. 498. Erection of traffic control signals by township boards on state trunk line highways—Upon request of any township board, county road commission, or the officials of any incorporated city or village, or upon their own initiative, the state highway commissioner and the commissioner of public safety, acting jointly may investigate or cause to be investigated the traffic conditions on any state trunk line highway within this state, and, if upon such investigation they shall find it in the interest of public safety and convenience, they may direct the said state highway commissioner, township board, county road commission, city or village officials, to erect and maintain, take down, regulate or control such parking, speed and traffic control signs, signals or devices as the said state highway commissioner and commissioner of public safety shall designate, and in default thereof, said state highway commissioner and commissioner of public safety shall be authorized to cause such designated signs, signals and devices to be erected and maintained, taken down, regulated or controlled, in the manner previously directed, and pay for same out of the highway fund designated. A public record of any and all such traffic signs, signals or devices so authorized shall be kept in the office of the state highway commissioner. Any person who shall, on any state trunk line highway in any township, city or village, fail to observe any parking, speed or traffic signs, signals or devices authorized as aforesaid, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than 100 dollars or by imprisonment in the county jail for not more than 10 days or by both such fine and imprisonment in the discretion of the court.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1937, Act 221, Eff. Oct. 29, 1937;—CL 1948, 750.498.

Former law: See section 1 of Act 85 of 1929, being CL 1929, § 4466.

750.498a Repealed. 1949, Act 300, Eff. Sept. 23, 1949.

Compiler's note: The repealed section provided for parking, speed, and traffic signs.

750.499, 750.500 Repealed. 1949, Act 300, Eff. Sept. 23, 1949.

Compiler's note: The repealed sections pertained to vehicles on highways to display lights from 1 hour after sunset to 1 hour before sunrise and school buses carrying school children to stop at railroad crossings.

750.501 Gasoline filling stations and public automobile garages.

Sec. 501. Gasoline filling stations and public automobile garages—Any person who shall build or construct, in any city having a population of more than 50,000 inhabitants and less than 100,000 inhabitants, on any site where 80 per cent of the buildings within a radius of 400 feet of the proposed site are used exclusively for residential purposes, any building for use as a public gasoline filling station for the sale of gasoline and oil, or either of them, to supply motor vehicles, or any public automobile garage, without filing with the clerk of said city the written consent of 60 per cent of the property owners according to total frontage on any public street within a radius of 400 feet of the proposed site of said building, shall be guilty of a misdemeanor: Provided, however, In the event any city has a building ordinance or regulates and restricts the location of trades and industries and the location of buildings under Act No. 207 of the Public Acts of 1921 and acts and parts of acts amendatory thereof, being sections 2633 to 2641 inclusive of the Compiled Laws of 1929, this section shall not apply to such city.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.501.

Compiler's note: For provisions of Act 207 of 1921, referred to in this section, see § 125.581 et seq.

Former law: See sections 1 and 3 of Act 358 of 1925, being CL 1929, §§ 2652 and 2654.

750.502 Repealed. 2002, Act 252, Imd. Eff. May 1, 2002.

Compiler's note: The repealed section pertained to handling of gasoline, benzine, and naphtha.

750.502a Repealed. 1964, Act 256, Eff. Aug. 28, 1964.

Compiler's note: The repealed section prohibited reckless operation of motorboats or operation while under influence of intoxicating liquor or narcotic drugs.

750.502b Sale or attempted sale of kerosene with flash point of less than 100 degrees Fahrenheit as misdemeanor; penalty.

Sec. 502b. A person who knowingly sells or attempts to sell to any person in this state, for use in atmospheric pressure wick-feed illuminating apparatus or atmospheric pressure wick-feed heating stoves or in gravity-feed cook stoves, any kerosene, whether manufactured in this state or not, that has a flash point of less than 100 degrees Fahrenheit as determined by an appropriate closed cup tester method specified in the

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American standards of testing materials standard for kerosene, 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: Add. 1952, Act 47, Eff. Sept. 18, 1952;—Am. 1991, Act 44, Imd. Eff. June 27, 1991;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

750.502c Person with disabilities or trainer led by guide, leader, hearing, or service dog; refusing entry to or use of public or private accommodations as misdemeanor; conditions; identification card; list; definitions.

Sec. 502c. (1) A person who is an owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public or private housing, accommodation, amusement, or recreation, including but not limited to any inn, hotel, motel, apartment building, trailer park, restaurant, barbershop, billiard parlor, store, public conveyance on land or water, theater, motion picture house, public or private educational institution, or elevator, who refuses to permit a person with disabilities to enter or use the place when the place is available because the person with disabilities is being led or accompanied by a guide or leader dog, hearing dog, or service dog is guilty of a misdemeanor if the guide or leader dog is wearing a harness or if the hearing dog or service dog is wearing a blaze orange leash and collar, hearing dog cape, or service dog backpack, and the person with disabilities being led or accompanied has in his or her possession a pictured identification card certifying that the dog was trained by a qualified organization or trainer. The department of labor shall maintain a list of organizations or trainers that train guide or leader dogs, hearing dogs, and service dogs.

(2) A person who is an owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public or private housing, accommodation, amusement, or recreation, including, but not limited to, the places listed in subsection (1), who refuses to permit a trainer of guide or leader dogs, hearing dogs, or service dogs to enter or use the place when the place is available because the trainer is being led or accompanied by a guide or leader dog, hearing dog, or service dog is guilty of a misdemeanor if the guide or leader dog is wearing a harness or if the hearing dog or service dog is wearing a hearing dog cape or service dog backpack, if the trainer is being led or accompanied by an adult dog for the purpose of training the dog, and if the trainer has in his or her possession picture identification and identification stating that he or she is a representative or employee of an organization or trainer, or is a trainer, included on the department of labor list of organizations or trainers that train guide or leader dogs, hearing dogs, or service dogs.

(3) As used in this section:

(a) "Adult dog" means a domestic dog of the species canis familiaris that is 12 months of age or older.

(b) "Audibly impaired" means audibly impaired as defined in section 1 of 1981 PA 82, MCL 752.61.

(c) "Blind person" means a blind person as defined in section 1 of 1978 PA 260, MCL 393.351.

(d) "Deaf person" means a deaf person as defined in section 1 of 1981 PA 82, MCL 752.61.

(e) "Person with disabilities" means a person who is audibly impaired, blind, deaf, or otherwise physically limited.

(f) "Physically limited" means physically limited as defined in section 1 of 1966 PA 1, MCL 125.1351.

History: Add. 1953, Act 185, Eff. Oct. 2, 1953;—Am. 1980, Act 317, Eff. Mar. 31, 1981;—Am. 1984, Act 110, Eff. Oct. 1, 1984;—Am. 1995, Act 114, Eff. Jan. 1, 1996;—Am. 1998, Act 38, Imd. Eff. Mar. 18, 1998.

Compiler's note: Section 3 of Act 110 of 1984 provides: "This amendatory act shall take effect October 1, 1984."

750.502d Transporting or possessing anhydrous ammonia; "container approved by law" defined.

Sec. 502d. (1) A person who transports or possesses anhydrous ammonia in a container other than a container approved by law, or who unlawfully tampers with a container approved by law, is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

(2) As used in this section, "container approved by law" means a container that was manufactured to satisfy the requirements for the storage and handling of anhydrous ammonia pursuant to R 408.17801 of the Michigan administrative code or its successor rule.

History: Add. 2003, Act 312, Eff. Apr. 1, 2004.

CHAPTER LXXIII
PUNISHMENTS

750.503 Punishment of felonies when not fixed by statute.

Sec. 503. If a person is convicted of a felony for which no punishment is specially prescribed, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

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History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.503;—Am. 2002, Act 722, Eff. Mar. 31, 2003.

750.504 Punishment of misdemeanors when not fixed by statute.

Sec. 504. If a person is convicted of a crime designated in this act or in any other act of this state to be a misdemeanor for which no punishment is specially prescribed, the person is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500.00, or both.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.504;—Am. 2002, Act 723, Eff. Mar. 31, 2003.

Former law: See section 27 of Ch. 156 of R.S. 1846, being CL 1857, § 5846; CL 1871, § 7679; How., § 9261; CL 1897, § 11331; CL 1915, § 14998; and CL 1929, § 16589.

750.505 Punishment for indictable common law offenses.

Sec. 505. Any person who shall commit any indictable offense at the common law, for the punishment of which no provision is expressly made by any statute of this state, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or by a fine of not more than $10,000.00, or both in the discretion of the court.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.505;—Am. 1954, Act 66, Eff. Aug. 13, 1954.

Former law: See section 15 of Ch. IX of Act 175 of 1927, being CL 1929, § 17343.

750.506 Optional jail sentence for first offenders convicted of felonies.

Sec. 506. Optional jail sentence for first offenders convicted of felonies—Whenever any person shall be convicted of a first offense herein declared to be a felony, punishable by imprisonment for a term of not more than 5 years, the court may instead of imposing the sentence provided, sentence such convicted person to the county jail for a period not to exceed 6 months.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.506.

750.506a Prisoners committing offenses defined in §§ 750.81 to 750.86; penalties.

Sec. 506a. (1) If a person, lawfully imprisoned in a jail or other place of confinement established by law, for any crime or offense, or lawfully imprisoned in a jail or other place of confinement after being sentenced for a crime or offense and awaiting or in transit to or from a prison or other place of confinement, commits any offense defined in sections 81 to 86, the court may impose the appropriate penalties prescribed in sections 81 to 86 to run consecutively with any sentence which the person is already serving.

(2) If a person, lawfully detained in a jail or other place of confinement established by law, and awaiting arraignment, examination, trial or sentencing for any crime or offense, commits a subsequent offense defined in sections 81 to 86, if convicted of the crime or offense for which he was detained at the time he committed the subsequent offense, any sentences imposed for conviction of the prior offense and for conviction of the subsequent offense under sections 81 to 86 may run consecutively.

History: Add. 1974, Act 121, Eff. July 1, 1974.

CHAPTER LXXIV
RADIO BROADCASTING

750.507 State radio broadcasting station; priority of messages.

Sec. 507. Every telegraph and telephone company operating in this state shall give priority to emergency messages or operator-handled telephone calls directed to any public safety agency and the person responsible for failure so to do shall be guilty of a misdemeanor. For the purposes of this section, public safety agency means any fire department, ambulance company, law enforcement agency, civil defense communications facility and the department of military affairs.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.507;—Am. 1968, Act 195, Eff. Nov. 15, 1968.

Former law: See section 4 of Act 152 of 1929, being CL 1929, § 577.

750.507b Telegraph and telephone companies; interference, obstruction.

Sec. 507b. Any unauthorized person who shall wilfully prevent, interfere, obstruct, or impede a public safety radio communication shall be guilty of a misdemeanor.

History: Add. 1968, Act 195, Eff. Nov. 15, 1968.

750.508 Equipping vehicle with radio able to receive signals on frequencies assigned for police purposes; permit required; exceptions; misdemeanor; penalty; radar detectors not applicable.

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Sec. 508. (1) Any person who shall equip a vehicle with a radio receiving set that will receive signals sent on frequencies assigned by the federal communications commission of the United States of America for police purposes, or use the same in this state unless the vehicle is used or owned by a peace officer, or a bona fide amateur radio operator holding a technician class, general, advanced, or extra class amateur license issued by the federal communications commission, without first securing a permit so to do from the director of the department of state police upon application as he or she may prescribe, 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.

(2) This section does not apply to the use of radar detectors.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1939, Act 295, Eff. Sept. 29, 1939;—CL 1948, 750.508;—Am. 1957, Act 242, Eff. Sept. 27, 1957;—Am. 1990, Act 77, Imd. Eff. May 24, 1990;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Constitutionality: This section, which prohibits equipping or using a vehicle with a radio receiving set capable of receiving frequencies assigned for police purposes, was enacted to facilitate law enforcement activity. This section's restriction of persons permitted to monitor those frequencies involves classifications which are rationally related to the statute's objective, consistent with equal protection and due process guarantees. People v. Gilbert, 414 Mich. 191, 324 N.W.2d 834 (1982).

Former law: See section 5 of Act 152 of 1929, being CL 1929, § 578.

750.508a Repealed. 1991, Act 55, Imd. Eff. June 27, 1991.

Compiler's note: The repealed section pertained to equipping a motor vehicle with a television viewable by the driver.

750.509 False reports to police broadcasting station.

Sec. 509. Any person who shall willfully make to any radio broadcasting station operated by any law enforcement agency any false, misleading, or unfounded report, for the purpose of interfering with the operation thereof, or with the intention of misleading any peace officer or officers of this state, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1941, Act 24, Eff. Jan. 10, 1942;—CL 1948, 750.509;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 6 of Act 152 of 1929, being CL 1929, § 579.

750.510 Broadcasting regulations; violation.

Sec. 510. Violation of regulations controlling broadcasting—Any person or corporation who shall knowingly cause or do any act in violation of any rule or order of the Michigan public utilities commission made pursuant to Act No. 131 of the Public Acts of 1927, being sections 11726 to 11731 inclusive of the Compiled Laws of 1929, and amendments thereto, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.510.

Compiler's note: Act 131 of 1927, referred to in this section, was repealed by Act 55 of 1988, Imd. Eff. Mar. 14, 1988.

Former law: See section 6 of Act 131 of 1927, being CL 1929, § 11731.

CHAPTER LXXV
RAILROADS

750.511 Attempt to wreck or endanger safety of passengers.

Sec. 511. Attempt to wreck railroad trains or endanger safety of passengers—Any person who shall place upon any railroad any timber, stone, iron or other obstruction, or who shall change any switch or track, or who shall loosen or displace any rail of the track of such railroad, or who shall change the brakes upon any car or cars standing on any railroad track in this state or who shall break down or displace, destroy or injure any bridge, culvert or embankment of any railroad, or do any other act with intent to endanger the safety of any person traveling or being upon such railroad, or to throw from such railroad any locomotive, tender, or car moving along the track of such railroad, on which shall be any person or property liable to be injured thereby, shall be guilty of a felony, punishable by imprisonment in the state prison for life or for any term of years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.511.

Former law: See section 1 of Act 164 of 1869, being CL 1871, § 7619; How., § 9200; CL 1897, § 11623; CL 1915, § 15388; CL 1929, § 17024; Act 168 of 1871; section 1 of Act 171 of 1897, being CL 1897, § 11634; CL 1915, § 15399; and CL 1929, § 17034.

750.512 Uncoupling locomotive or cars.

Sec. 512. Uncoupling locomotive or cars—Any person, not being employed on any railroad, who shall wilfully and maliciously uncouple or detach the locomotive or tender, or any of the cars of any railroad train, or shall in any way aid, abet, or procure the doing of the same, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years, or by fine of not more than 5,000 dollars.

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History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.512.

Former law: See section 3 of Act 164 of 1869, being CL 1871, § 7621; How., § 9202; CL 1897, § 11625; CL 1915, § 15390; and CL 1929, § 17026.

750.513 Repealed. 2002, Act 293, Imd. Eff. May 9, 2002.

Compiler's note: The repealed section pertained to fraudulent railroad securities.

750.514 Repealed. 2002, Act 292, Imd. Eff. May 9, 2002.

Compiler's note: The repealed section pertained to seizing locomotive with mail or express car attached.

750.515 Proof of existence of railroad company.

Sec. 515. Proof of existence of railroad company—At the trial of any case arising under the preceding sections of this chapter, it shall be sufficient prima facie proof of the existence of any railroad company named in the indictment to show that such company was doing business as a railroad company at the time named in the indictment.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.515.

Former law: See section 10 of Act 164 of 1869, being How., § 9209; CL 1897, § 11632; CL 1915, § 15397; CL 1929, § 17033; and Act 146 of 1881.

750.516 Repealed. 2002, Act 291, Imd. Eff. May 9, 2002.

Compiler's note: The repealed section pertained to forcible detention of railroad train.

750.517 Repealed. 2002, Act 290, Imd. Eff. May 9, 2002.

Compiler's note: The repealed section pertained to entering train for robbing by means of intimidation.

750.518 Boarding railroad train while in motion.

Sec. 518. Boarding railroad train while in motion—Any person who shall jump or step on board of any railroad train, locomotive or car when in motion except employes and passengers at railway stations shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.518.

Former law: See section 1 of Act 31 of 1883, being How., § 9122c; CL 1897, § 11533; CL 1915, § 15276; and CL 1929, § 17041.

750.519 Disciplining or discharging on report of railroad detective.

Sec. 519. A common carrier by railroad, its agents, superintendents, managers, or employees owning or operating any line or lines of railroad in this state and engaged in commerce by railroad, employing any special agent, detective, or person commonly known as a spotter for the purpose of investigation and obtaining and reporting to the employer, its agents, superintendents, or managers information concerning its employees shall not discipline or discharge any of its employees if the act of discipline or discharge is based upon the report of such special agent, detective, or spotter, which involves a question of integrity, honesty, or breach of any rule of the employer, unless such employer, its agents, superintendents, or managers first give notice to such employee so reported and grant a hearing to the employee when he or she so requests and, upon demand by said employee, the employer at the hearing shall state the specific charges against the employee, and the accused employee shall have the right to demand and be confronted with the person making such report to his or her employer, have the right at the hearing to cross-examine the agent, detective, or spotter making the report, and have the right to employ counsel to represent him or her at the hearing.

Any common carrier by railroad or any of its agents, superintendents, general managers, officers, or employees that violate this section are guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00. In any case of the violation of this section by any of the officers, agents, or employees of any such common carrier by railroad, the imprisonment provided herein if imposed shall be imposed upon the officers or agents committing the offense.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.519;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 1 and 2 of Act 92 of 1917, being CL 1929, §§ 8635 and 8636.

CHAPTER LXXVI
RAPE

750.520 Repealed. 1974, Act 266, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to acts of carnal knowledge constituting a felony, the penalties therefor, and the proof thereof.

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750.520a Definitions.

Sec. 520a. As used in this chapter:

(a) "Actor" means a person accused of criminal sexual conduct.

(b) "Developmental disability" means an impairment of general intellectual functioning or adaptive behavior which meets the following criteria:

(*i*) It originated before the person became 18 years of age.

(*ii*) It has continued since its origination or can be expected to continue indefinitely.

(*iii*) It constitutes a substantial burden to the impaired person's ability to perform in society.

(*iv*) It is attributable to 1 or more of the following:

(A) Mental retardation, cerebral palsy, epilepsy, or autism.

(B) Any other condition of a person found to be closely related to mental retardation because it produces a similar impairment or requires treatment and services similar to those required for a person who is mentally retarded.

(c) "Intimate parts" includes the primary genital area, groin, inner thigh, buttock, or breast of a human being.

(d) "Mental health professional" means that term as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

(e) "Mental illness" means a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(f) "Mentally disabled" means that a person has a mental illness, is mentally retarded, or has a developmental disability.

(g) "Mentally incapable" means that a person suffers from a mental disease or defect which renders that person temporarily or permanently incapable of appraising the nature of his or her conduct.

(h) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or other substance administered to that person without his or her consent, or due to any other act committed upon that person without his or her consent.

(i) "Mentally retarded" means significantly subaverage general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behavior.

(j) "Nonpublic school" means that term as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

(k) "Physically helpless" means that a person is unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to an act.

(*l*) "Personal injury" means bodily injury, disfigurement, mental anguish, chronic pain, pregnancy, disease, or loss or impairment of a sexual or reproductive organ.

(m) "Public school" means that term as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

(n) "Sexual contact" includes the intentional touching of the victim's or actor's intimate parts or the intentional touching of the clothing covering the immediate area of the victim's or actor's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose, or in a sexual manner for:

(*i*) Revenge.

(*ii*) To inflict humiliation.

(*iii*) Out of anger.

(o) "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.

(p) "Victim" means the person alleging to have been subjected to criminal sexual conduct.

History: Add. 1974, Act 266, Eff. Apr. 1, 1975;—Am. 1983, Act 158, Eff. Mar. 29, 1984;—Am. 2000, Act 505, Eff. Mar. 28, 2001;—Am. 2002, Act 714, Eff. Apr. 1, 2003.

Constitutionality: The provision in the criminal sexual conduct statute which permits elevation of a criminal sexual conduct offense from a lesser to a higher degree on the basis of proof of personal injury to the victim in the form of mental anguish is not unconstitutionally vague. People v. Petrella, 424 Mich. 221, 380 N.W.2d 11 (1985).

Compiler's note: Section 2 of Act 266 of 1974 provides:

"Saving clause.

"All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act."

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750.520b Criminal sexual conduct in the first degree; felony.

Sec. 520b. (1) A person is guilty of criminal sexual conduct in the first degree if he or she engages in sexual penetration with another person and if any of the following circumstances exists:

(a) That other person is under 13 years of age.

(b) That other person is at least 13 but less than 16 years of age and any of the following:

(*i*) The actor is a member of the same household as the victim.

(*ii*) The actor is related to the victim by blood or affinity to the fourth degree.

(*iii*) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(*iv*) The actor is a teacher, substitute teacher, or administrator of the public or nonpublic school in which that other person is enrolled.

(c) Sexual penetration occurs under circumstances involving the commission of any other felony.

(d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:

(*i*) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(*ii*) The actor uses force or coercion to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in subdivision (f)(*i*) to (*v*).

(e) The actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.

(f) The actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration. Force or coercion includes but is not limited to any of the following circumstances:

(*i*) When the actor overcomes the victim through the actual application of physical force or physical violence.

(*ii*) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats.

(*iii*) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute this threat. As used in this subdivision, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.

(*iv*) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable.

(*v*) When the actor, through concealment or by the element of surprise, is able to overcome the victim.

(g) The actor causes personal injury to the victim, and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:

(*i*) The actor is related to the victim by blood or affinity to the fourth degree.

(*ii*) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(2) Criminal sexual conduct in the first degree is a felony punishable by imprisonment in the state prison for life or for any term of years.

History: Add. 1974, Act 266, Eff. Apr. 1, 1975;—Am. 1983, Act 158, Eff. Mar. 29, 1984;—Am. 2002, Act 714, Eff. Apr. 1, 2003.

Constitutionality: The provision in the criminal sexual conduct statute which permits elevation of a criminal sexual conduct offense from a lesser to a higher degree on the basis of proof of personal injury to the victim in the form of mental anguish is not unconstitutionally vague. People v. Petrella, 424 Mich. 221, 380 N.W.2d 11 (1985).

Compiler's note: Section 2 of Act 266 of 1974 provides:

"Saving clause.

"All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act."

750.520c Criminal sexual conduct in the second degree; felony.

Sec. 520c. (1) A person is guilty of criminal sexual conduct in the second degree if the person engages in sexual contact with another person and if any of the following circumstances exists:

(a) That other person is under 13 years of age.

(b) That other person is at least 13 but less than 16 years of age and any of the following:

(*i*) The actor is a member of the same household as the victim.

(*ii*) The actor is related by blood or affinity to the fourth degree to the victim.

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(*iii*) The actor is in a position of authority over the victim and the actor used this authority to coerce the victim to submit.

(*iv*) The actor is a teacher, substitute teacher, or administrator of the public or nonpublic school in which that other person is enrolled.

(c) Sexual contact occurs under circumstances involving the commission of any other felony.

(d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:

(*i*) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(*ii*) The actor uses force or coercion to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in sections 520b(1)(f)(*i*) to (*v*).

(e) The actor is armed with a weapon, or any article used or fashioned in a manner to lead a person to reasonably believe it to be a weapon.

(f) The actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in section 520b(1)(f)(*i*) to (*v*).

(g) The actor causes personal injury to the victim and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:

(*i*) The actor is related to the victim by blood or affinity to the fourth degree.

(*ii*) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(i) That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or a volunteer with, the department of corrections who knows that the other person is under the jurisdiction of the department of corrections.

(j) That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or a volunteer with, a private vendor that operates a youth correctional facility under section 20g of 1953 PA 232, MCL 791.220g, who knows that the other person is under the jurisdiction of the department of corrections.

(k) That other person is a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program and the actor is an employee or a contractual employee of or a volunteer with the county or the department of corrections who knows that the other person is under the county's jurisdiction.

(*l*) The actor knows or has reason to know that a court has detained the victim in a facility while the victim is awaiting a trial or hearing, or committed the victim to a facility as a result of the victim having been found responsible for committing an act that would be a crime if committed by an adult, and the actor is an employee or contractual employee of, or a volunteer with, the facility in which the victim is detained or to which the victim was committed.

(2) Criminal sexual conduct in the second degree is a felony punishable by imprisonment for not more than 15 years.

History: Add. 1974, Act 266, Eff. Apr. 1, 1975;—Am. 1983, Act 158, Eff. Mar. 29, 1984;—Am. 2000, Act 227, Eff. Oct. 1, 2000;—Am. 2002, Act 714, Eff. Apr. 1, 2003.

Compiler's note: Section 2 of Act 266 of 1974 provides:

"Saving clause.

"All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act."

750.520d Criminal sexual conduct in the third degree; felony.

Sec. 520d. (1) A person is guilty of criminal sexual conduct in the third degree if the person engages in sexual penetration with another person and if any of the following circumstances exist:

(a) That other person is at least 13 years of age and under 16 years of age.

(b) Force or coercion is used to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in section 520b(1)(f)(*i*) to (*v*).

(c) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(d) That other person is related to the actor by blood or affinity to the third degree and the sexual penetration occurs under circumstances not otherwise prohibited by this chapter. It is an affirmative defense

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to a prosecution under this subdivision that the other person was in a position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(e) That other person is at least 16 years of age but less than 18 years of age and a student at a public or nonpublic school, and the actor is a teacher, substitute teacher, or administrator of that public or nonpublic school. This subdivision does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time of the alleged violation.

(2) Criminal sexual conduct in the third degree is a felony punishable by imprisonment for not more than 15 years.

History: Add. 1974, Act 266, Eff. Apr. 1, 1975;—Am. 1983, Act 158, Eff. Mar. 29, 1984;—Am. 1996, Act 155, Eff. June 1, 1996;—Am. 2002, Act 714, Eff. Apr. 1, 2003.

Compiler's note: Section 2 of Act 266 of 1974 provides:

"Saving clause.

"All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act."

750.520e Criminal sexual conduct in the fourth degree; misdemeanor.

Sec. 520e. (1) A person is guilty of criminal sexual conduct in the fourth degree if he or she engages in sexual contact with another person and if any of the following circumstances exist:

(a) That other person is at least 13 years of age but less than 16 years of age, and the actor is 5 or more years older than that other person.

(b) Force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the following circumstances:

(*i*) When the actor overcomes the victim through the actual application of physical force or physical violence.

(*ii*) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute that threat.

(*iii*) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute that threat. As used in this subparagraph, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.

(*iv*) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable.

(*v*) When the actor achieves the sexual contact through concealment or by the element of surprise.

(c) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(d) That other person is related to the actor by blood or affinity to the third degree and the sexual contact occurs under circumstances not otherwise prohibited by this chapter. It is an affirmative defense to a prosecution under this subdivision that the other person was in a position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(e) The actor is a mental health professional and the sexual contact occurs during or within 2 years after the period in which the victim is his or her client or patient and not his or her spouse. The consent of the victim is not a defense to a prosecution under this subdivision. A prosecution under this subsection shall not be used as evidence that the victim is mentally incompetent.

(f) That other person is at least 16 years of age but less than 18 years of age and a student at a public or nonpublic school, and the actor is a teacher, substitute teacher, or administrator of that public or nonpublic school. This subdivision does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time of the alleged violation.

(2) Criminal sexual conduct in the fourth degree is a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than $500.00, or both.

History: Add. 1974, Act 266, Eff. Apr. 1, 1975;—Am. 1983, Act 158, Eff. Mar. 29, 1984;—Am. 1988, Act 86, Eff. June 1, 1988;—Am. 1994, Act 213, Eff. Oct. 1, 1994;—Am. 1996, Act 155, Eff. June 1, 1996;—Am. 2000, Act 227, Eff. Oct. 1, 2000;—Am. 2000, Act 505, Eff. Mar. 28, 2001;—Am. 2002, Act 714, Eff. Apr. 1, 2003.

Compiler's note: Section 2 of Act 266 of 1974 provides:

"Saving clause.

"All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are

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saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act."

750.520f Second or subsequent offense; penalty.

Sec. 520f. (1) If a person is convicted of a second or subsequent offense under section 520b, 520c, or 520d, the sentence imposed under those sections for the second or subsequent offense shall provide for a mandatory minimum sentence of at least 5 years.

(2) For purposes of this section, an offense is considered a second or subsequent offense if, prior to conviction of the second or subsequent offense, the actor has at any time been convicted under section 520b, 520c, or 520d or under any similar statute of the United States or any state for a criminal sexual offense including rape, carnal knowledge, indecent liberties, gross indecency, or an attempt to commit such an offense.

History: Add. 1974, Act 266, Eff. Apr. 1, 1975.

Compiler's note: Section 2 of Act 266 of 1974 provides:
"Saving clause.
"All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act."

750.520g Assault with intent to commit criminal sexual conduct; felony.

Sec. 520g. (1) Assault with intent to commit criminal sexual conduct involving sexual penetration shall be a felony punishable by imprisonment for not more than 10 years.

(2) Assault with intent to commit criminal sexual conduct in the second degree is a felony punishable by imprisonment for not more than 5 years.

History: Add. 1974, Act 266, Eff. Apr. 1, 1975.

Compiler's note: Section 2 of Act 266 of 1974 provides:
"Saving clause.
"All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act."

750.520h Corroboration of victim's testimony not required.

Sec. 520h. The testimony of a victim need not be corroborated in prosecutions under sections 520b to 520g.

History: Add. 1974, Act 266, Eff. Apr. 1, 1975.

Compiler's note: Section 2 of Act 266 of 1974 provides:
"Saving clause.
"All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act."

750.520i Resistance by victim not required.

Sec. 520i. A victim need not resist the actor in prosecution under sections 520b to 520g.

History: Add. 1974, Act 266, Eff. Apr. 1, 1975.

Compiler's note: Section 2 of Act 266 of 1974 provides:
"Saving clause.
"All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act."

750.520j Evidence of victim's sexual conduct.

Sec. 520j. (1) Evidence of specific instances of the victim's sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct shall not be admitted under sections 520b to 520g unless and only to the extent that the judge finds that the following proposed evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value:

(a) Evidence of the victim's past sexual conduct with the actor.

(b) Evidence of specific instances of sexual activity showing the source or origin of semen, pregnancy, or disease.

(2) If the defendant proposes to offer evidence described in subsection (1)(a) or (b), the defendant within 10 days after the arraignment on the information shall file a written motion and offer of proof. The court may order an in camera hearing to determine whether the proposed evidence is admissible under subsection (1). If

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new information is discovered during the course of the trial that may make the evidence described in subsection (1)(a) or (b) admissible, the judge may order an in camera hearing to determine whether the proposed evidence is admissible under subsection (1).

History: Add. 1974, Act 266, Eff. Apr. 1, 1975.

Constitutionality: This section, the rape-shield law, is not unconstitutional. People v. Arenda, 416 Mich. 1, 330 N.W.2nd 814 (1982).

In Michigan v. Lucas, 111 S.Ct. 1743 (1991), the United States Supreme Court held that the Michigan Court of Appeals had erred in adopting a "per se rule" that the notice-and-hearing requirement of Michigan's rape-shield law violated the Sixth Amendment to the United States Constitution in all cases where it was used to preclude evidence of past sexual conduct between a rape victim and a defendant (see, People v. Lucas, 160 Mich. App. 692; 408 N.W.2d 431 (1987)). The Court found that the statute "serves legitimate state interests in protecting against surprise, harassment, and undue delay. Failure to comply with this requirement may ... justify even the severe sanction of preclusion."

Compiler's note: Section 2 of Act 266 of 1974 provides:

"Saving clause.

"All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act."

750.520k Suppression of names and details.

Sec. 520k. Upon the request of the counsel or the victim or actor in a prosecution under sections 520b to 520g the magistrate before whom any person is brought on a charge of having committed an offense under sections 520b to 520g shall order that the names of the victim and actor and details of the alleged offense be suppressed until such time as the actor is arraigned on the information, the charge is dismissed, or the case is otherwise concluded, whichever occurs first.

History: Add. 1974, Act 266, Eff. Apr. 1, 1975.

Constitutionality: The statute authorizing suppression of a court file containing the name of a victim of criminal sexual conduct, the name of the defendant, and the details of the offense until the defendant is arraigned, the charge is dismissed, or the case is otherwise concluded is not a prior restraint upon publication, but a valid legislative restriction on the common-law right of access to public records and the statutory right of access to court proceedings. In re Midland Publishing, 420 Mich. 148, 362 N.W.2d 580 (1984).

Compiler's note: Section 2 of Act 266 of 1974 provides:

"Saving clause.

"All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act."

750.520*l* Legal spouse as victim.

Sec. 520*l*. A person may be charged and convicted under sections 520b to 520g even though the victim is his or her legal spouse. However, a person may not be charged or convicted solely because his or her legal spouse is under the age of 16, mentally incapable, or mentally incapacitated.

History: Add. 1974, Act 266, Eff. Apr. 1, 1975;—Am. 1988, Act 138, Imd. Eff. June 1, 1988.

Compiler's note: Section 2 of Act 266 of 1974 provides:

"Saving clause.

"All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act."

Section 2 of Act 138 of 1988 provides: "This amendatory act shall take effect June 1, 1988 and apply to crimes committed on or after that date."

750.520m DNA identification profiling; chemical testing; manner of collecting and transmitting samples; existing DNA identification profile; disclosure; assessment; report; definitions.

Sec. 520m. (1) A person shall provide samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and shall provide samples for chemical testing for a determination of his or her secretor status if any of the following apply:

(a) The person is found responsible for a violation of section 83, 91, 316, 317, or 321, a violation or attempted violation of section 349, 520b, 520c, 520d, 520e, or 520g, or a violation of section 167(1)(c) or (f) or 335a, or a local ordinance substantially corresponding to section 167(1)(c) or (f) or 335a.

(b) The person is convicted of a felony or attempted felony, or any of the following misdemeanors, or local ordinances that are substantially corresponding to the following misdemeanors:

(*i*) A violation of section 145a, enticing a child for immoral purposes.

(*ii*) A violation of section 167(1)(c), (f), or (i), disorderly person by window peeping, engaging in indecent or obscene conduct in public, or loitering in a house of ill fame or prostitution.

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(*iii*) A violation of section 335a, indecent exposure.

(*iv*) A violation of section 451, first and second prostitution violations.

(*v*) A violation of section 454, leasing a house for purposes of prostitution.

(*vi*) A violation of section 462, female under the age of 17 in a house of prostitution.

(2) Notwithstanding subsection (1), if at the time the person is convicted of or found responsible for the violation the investigating law enforcement agency or the department of state police already has a sample from the person that meets the requirements of the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, the person is not required to provide another sample or pay the fee required under subsection (6).

(3) The county sheriff or the investigating law enforcement agency shall collect and transmit the samples in the manner required under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(4) An investigating law enforcement agency, prosecuting agency, or court that has in its possession a DNA identification profile obtained from a sample of a person pursuant to subsection (1) shall forward the DNA identification profile to the department of state police at or before the time of the person's sentencing or disposition upon that conviction or finding of responsibility unless the department of state police already has a DNA identification profile of the person.

(5) The DNA profiles of DNA samples received under this section shall only be disclosed as follows:

(a) To a criminal justice agency for law enforcement identification purposes.

(b) In a judicial proceeding as authorized or required by a court.

(c) To a defendant in a criminal case if the DNA profile is used in conjunction with a charge against the defendant.

(d) For an academic, research, statistical analysis, or protocol developmental purpose only if personal identifications are removed.

(6) Until October 1, 2003, the court shall order each person found responsible for or convicted of 1 or more crimes listed in subsection (1) to pay an assessment of $60.00. The assessment required under this subsection is in addition to any fine, costs, or other assessments imposed by the court.

(7) An assessment required under subsection (6) shall be ordered upon the record, and shall be listed separately in the adjudication order, judgment of sentence, or order of probation.

(8) After reviewing a verified petition by a person against whom an assessment is imposed under subsection (6), the court may suspend payment of all or part of the assessment if it determines the person is unable to pay the assessment.

(9) The court that imposes the assessment prescribed under subsection (6) may retain 10% of all assessments or portions of assessments collected for costs incurred under this section and shall transmit that money to its funding unit. On the last day of each month, the clerk of the court shall transmit the assessments or portions of assessments collected under this section as follows:

(a) Twenty-five percent to the county sheriff or other investigating law enforcement agency that collected the DNA sample as designated by the court to defray the costs of collecting DNA samples.

(b) Until October 1, 2003, 65% to the department of treasury for the department of state police forensic science division to defray the costs associated with the requirements of DNA profiling and DNA retention prescribed under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(c) Beginning October 1, 2003, 65% to the state treasurer for deposit in the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181.

(10) Beginning December 31, 2002, the director of the department of state police shall report by December 31 of each year concerning the rate of DNA sample collection, DNA identification profiling, retention and compilation of DNA identification profiles, and the collection of assessments required under subsection (6) to all of the following:

(a) The standing committees of the senate and house of representatives concerned with DNA sample collection and retention.

(b) The house of representatives appropriations subcommittee on state police and military affairs.

(c) The senate appropriations subcommittee on state police.

(11) As used in this section:

(a) “DNA identification profile” and “DNA identification profiling” mean those terms as defined in section 2 of the DNA identification profiling system act, 1990 PA 250, MCL 28.172.

(b) “Investigating law enforcement agency” means the law enforcement agency responsible for the investigation of the offense for which the person is convicted. Investigating law enforcement agency includes the county sheriff but does not include a probation officer employed by the department of corrections.

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(c) “Felony” means a violation of a penal law of this state for which the offender may be punished by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

(d) “Sample” means a portion of a person's blood, saliva, or tissue collected from the person.

History: Add. 1990, Act 191, Eff. Oct. 1, 1991;—Am. 1994, Act 163, Eff. Sept. 1, 1994;—Am. 1996, Act 510, Imd. Eff. Jan. 9, 1997 ;—Am. 2001, Act 89, Eff. Jan. 1, 2002;—Am. 2003, Act 100, Eff. Oct. 1, 2003.

CHAPTER LXXVII
RIOTS AND UNLAWFUL ASSEMBLIES

750.521-750.522 Repealed. 1968, Act 302, Eff. July 1, 1968.

Compiler's note: The repealed sections pertained to riots and unlawful assemblies; duty of officials to disperse; arrest on failure to disperse.

750.523 Riots and unlawful assemblies; refusal to aid officer.

Sec. 523. Refusal to aid officer to disperse or arrest rioters—If any person present, being commanded by any of the magistrates or officers aforesaid, to aid and assist in seizing and securing such rioters, or persons so unlawfully assembled, or in suppressing such riot or unlawful assembly, shall refuse or neglect to obey such command, or when required by any such magistrate or officer to depart from the place of such riotous or unlawful assembly, shall refuse or neglect so to do, he shall be deemed to be 1 of the rioters or persons unlawfully assembled, and shall be liable to be prosecuted and punished accordingly.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.523.

Former law: See section 3 of Ch. 157 of R.S. 1846, being CL 1857, § 5849; CL 1871, § 7683; How., § 9266; CL 1897, § 11336; CL 1915, § 15003; and CL 1929, § 16600.

750.524 Riotous or unlawful assembly; neglecting or refusing to suppress assembly and arrest offenders; penalty.

Sec. 524. Any mayor, alderman, supervisor, president, trustee or member of a common council, sheriff, or deputy sheriff, having notice of any such riotous or tumultuous and unlawful assembly as is mentioned in this chapter, in the township, city, or village in which he or she lives, who shall neglect or refuse immediately to proceed to the place of such assembly, or as near as he or she can with safety, or shall omit or neglect to exercise the authority with which he or she is invested by this chapter, for suppressing such riotous or unlawful assembly, and for arresting and securing the offenders, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.524;—Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 4 of Ch. 157 of R.S. 1846, being CL 1857, § 5850; CL 1871, § 7684; How., § 9267; CL 1897, § 11337; CL 1915, § 15004; and CL 1929, § 16601.

750.525 Riots and unlawful assemblies; use of force to quell.

Sec. 525. Use of force to quell unlawful assemblies—If any persons, who shall be so riotously or unlawfully assembled, and who shall have been commanded to disperse, as before provided, shall refuse or neglect to disperse, without unnecessary delay, any 2 of the magistrates or officers before mentioned may require the aid of a sufficient number of persons, in arms or otherwise, as may be necessary, and shall proceed in such manner as in their judgment shall be expedient, forthwith to disperse and suppress such unlawful, riotous or tumultuous assembly, and seize and secure the persons composing the same, so that they may be proceeded with according to law.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.525.

Former law: See section 5 of Ch. 157 of R.S. 1846, being CL 1857, § 5851; CL 1871, § 7685; How., § 9268; CL 1897, § 11338; CL 1915, § 15005; and CL 1929, § 16602.

750.526 Riots and unlawful assemblies; armed force in dispersing to execute order of certain officials.

Sec. 526. Control of armed force—Whenever an armed force shall be called out in the manner provided by law for the purpose of suppressing any tumult or riot, or to disperse any body of men acting together by force, and with intent to commit any felony, or to offer violence to persons or property, or with intent, by force or violence, to resist or oppose the execution of the laws of this state, such armed force, when they shall arrive at the place of such unlawful, riotous or tumultuous assembly, shall obey such orders for suppressing the riot or tumult, and for dispersing and arresting all persons who are committing any of the said offenses, as they may have received from the governor, or from any judge of a court of record, or the sheriff of the county, any chief

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of police or his duly authorized representative, or any member of the Michigan state police, and also such further orders as they shall there receive from any 2 of the magistrates or officers mentioned in the first section of this chapter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1941, Act 106, Eff. Jan. 10, 1942;—CL 1948, 750.526.

Former law: See section 6 of Ch. 157 of R.S. 1846, being CL 1857, § 5852; CL 1871, § 7686; How., § 9269; CL 1897, § 11339; CL 1915, § 15006; and CL 1929, § 16603.

750.527 Riots and unlawful assemblies; death ensuing from efforts to disperse.

Sec. 527. Death ensuing from efforts to disperse unlawful assemblies or riots—If, by reason of any of the efforts made by any 2 or more of the said magistrates or officers, or by their direction, to disperse such unlawful, riotous or tumultuous assembly, or to seize and secure the persons composing the same, who have refused to disperse though the number remaining may be less than 12, any such person, or any other person there present as spectators or otherwise, shall be killed or wounded, the said magistrates and officers and all persons assisting by their order, or under their direction, shall be held guiltless and fully justified in law; and if any of the said magistrates or officers, or any person acting by their order, or under their direction, shall be killed or wounded, all the persons so unlawfully, riotously or tumultuously assembled, and all other persons who, when commanded or required, shall have refused to aid or assist the said magistrates or officers, shall be held answerable therefor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.527.

Former law: See section 7 of Ch. 157 of R.S. 1846, being CL 1857, § 5853; CL 1871, § 7687; How., § 9270; CL 1897, § 11340; CL 1915, § 15007; and CL 1929, § 16604.

750.528 Riots and unlawful assemblies; destroying dwelling house or other property.

Sec. 528. Riotously destroying dwelling house or other property—Any of the persons so unlawfully assembled, who shall demolish, pull down, destroy or injure, or who shall begin to demolish, pull down, destroy or injure any dwelling house or any other building, or any ship or vessel, shall be guilty of a felony, and shall be answerable to any person injured, to the full amount of the damage, in an action of trespass.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.528.

Former law: See section 8 of Ch. 157 of R.S. 1846, being CL 1857, § 5854; CL 1871, § 7688; How., § 9271; CL 1897, § 11341; CL 1915, § 15008; and CL 1929, § 16605.

750.528a Firearm or explosive or incendiary device; teaching or demonstrating use, application, or construction in furtherance of civil disorder; unlawful assembly; applicability of section; violation as felony.

Sec. 528a. (1) As used in this section:

(a) "Civil disorder" means any public disturbance involving the use of any firearm, explosive, or incendiary device by 3 or more assembled persons which causes an immediate danger to, or which results in damage or injury to, any property or person.

(b) "Explosive or incendiary device" means:

(*i*) Dynamite, gunpowder, or other similarly explosive substance.

(*ii*) Any bomb, grenade, missile, or similar device designed to expand suddenly and release internal energy resulting in an explosion.

(*iii*) Any incendiary bomb or grenade, fire bomb, or similar device designed to ignite, including any device which consists of or includes a breakable container containing a flammable liquid or compound and a wick composed of any material which, if ignited, is capable of igniting the flammable liquid or compound; and which may be carried or thrown by a person.

(c) "Firearm" means any weapon from which a dangerous projectile may be propelled by using explosives, gas, or air as a means of propulsion; any weapon which may be readily converted to expel any projectile by the action of an explosive, or the frame or receiver of such a firearm or weapon, except any smooth bore rifle or handgun designed and manufactured exclusively for propelling BB's not exceeding .177 caliber by means of spring, gas, or air.

(d) "Law enforcement officer" means any of the following:

(*i*) Every sheriff or sheriff's deputy; village marshal or township constable; officer of the police department of any city, village, or township; any officer of the Michigan state police; or any peace officer who is trained and certified pursuant to Act No. 203 of the Public Acts of 1965, being sections 28.601 to 28.616 of the Michigan Compiled Laws.

(*ii*) Any officer or employee of the United States, its possessions, or territories who is authorized to enforce the laws of the United States, its possessions, or its territories.

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(*iii*) Any member of the national guard, coast guard, military reserve, or the armed forces of the United States when acting in his or her official capacity.

(2) A person shall not teach or demonstrate to another person the use, application, or construction of any firearm, or any explosive or incendiary device, if that person knows, has reason to know, or intends that what is taught or demonstrated will be used in, or in furtherance of, a civil disorder.

(3) A person shall not assemble with 1 or more persons for the purpose of training with, practicing with, or being instructed in the use of any firearm, or any explosive or incendiary device, if that person intends to use such a firearm or device in, or in furtherance of, a civil disorder.

(4) This section shall not apply to any act of a law enforcement officer which is performed in the lawful performance of his or her official duties as a law enforcement officer, or any activity of any hunting club, rifle club, rifle range, pistol range, shooting range, or other program or individual instruction intended to teach the safe handling or use of firearms, archery equipment, or other weapons or techniques employed in connection with lawful sports, self-defense, or other lawful activities.

(5) A person who violates this section is guilty of a felony.

History: Add. 1986, Act 113, Eff. Mar. 31, 1987.

CHAPTER LXXVIII
ROBBERY

750.529 Use or possession of dangerous weapon; aggravated assault; penalty.

Sec. 529. A person who engages in conduct proscribed under section 530 and who in the course of engaging in that conduct, possesses a dangerous weapon or an article used or fashioned in a manner to lead any person present to reasonably believe the article is a dangerous weapon, or who represents orally or otherwise that he or she is in possession of a dangerous weapon, is guilty of a felony punishable by imprisonment for life or for any term of years. If an aggravated assault or serious injury is inflicted by any person while violating this section, the person shall be sentenced to a minimum term of imprisonment of not less than 2 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.529;—Am. 1959, Act 71, Eff. Mar. 19, 1960;—Am. 2004, Act 128, Eff. July 1, 2004.

Constitutionality: A defendant's convictions of both armed robbery and the lesser included offenses of larceny of property with a value over $100 and of larceny in a building cannot be allowed to stand as a violation of the defendant's protection against double jeopardy. People v. Jankowski, 408 Mich. 79, 289 N.W.2d 674 (1980).

In People v. Wilder, 411 Mich. 328, 308 N.W.2d 112 (1981), the Michigan supreme court held that conviction and sentence for both first-degree felony murder and the underlying felony of armed robbery violates the state constitutional prohibition against double jeopardy.

Former law: See section 15 of Ch. 153 of R.S. 1846, being CL 1857, § 5725; CL 1871, § 7524; How., § 9089; CL 1897, § 11484; CL 1915, § 15206; CL 1929, § 16722; and Act 374 of 1927.

750.529a Carjacking; felony; penalty; "in the course of committing a larceny of a motor vehicle" defined; consecutive sentence.

Sec. 529a. (1) A person who in the course of committing a larceny of a motor vehicle uses force or violence or the threat of force or violence, or who puts in fear any operator, passenger, or person in lawful possession of the motor vehicle, or any person lawfully attempting to recover the motor vehicle, is guilty of carjacking, a felony punishable by imprisonment for life or for any term of years.

(2) As used in this section, "in the course of committing a larceny of a motor vehicle" includes acts that occur in an attempt to commit the larceny, or during commission of the larceny, or in flight or attempted flight after the commission of the larceny, or in an attempt to retain possession of the motor vehicle.

(3) A sentence imposed for a violation of this section may be imposed to run consecutively to any other sentence imposed for a conviction that arises out of the same transaction.

History: Add. 1994, Act 191, Eff. Oct. 1, 1994;—Am. 2004, Act 128, Eff. July 1, 2004.

750.530 Larceny of money or other property; felony; penalty; "in the course of committing a larceny" defined.

Sec. 530. (1) A person who, in the course of committing a larceny of any money or other property that may be the subject of larceny, uses force or violence against any person who is present, or who assaults or puts the person in fear, is guilty of a felony punishable by imprisonment for not more than 15 years.

(2) As used in this section, "in the course of committing a larceny" includes acts that occur in an attempt to commit the larceny, or during commission of the larceny, or in flight or attempted flight after the commission of the larceny, or in an attempt to retain possession of the property.

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History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.530;—Am. 2004, Act 128, Eff. July 1, 2004.

Former law: See section 17 of Ch. 153 of R.S. 1846, being CL 1857, § 5727; CL 1871, § 7526; How., § 9091; CL 1897, § 11486; CL 1915, § 15208; and CL 1929, § 16724.

750.531 Bank, safe and vault robbery.

Sec. 531. Bank, safe and vault robbery—Any person who, with intent to commit the crime of larceny, or any felony, shall confine, maim, injure or wound, or attempt, or threaten to confine, kill, maim, injure or wound, or shall put in fear any person for the purpose of stealing from any building, bank, safe or other depository of money, bond or other valuables, or shall by intimidation, fear or threats compel, or attempt to compel any person to disclose or surrender the means of opening any building, bank, safe, vault or other depository of money, bonds, or other valuables, or shall attempt to break, burn, blow up or otherwise injure or destroy any safe, vault or other depository of money, bonds or other valuables in any building or place, shall, whether he succeeds or fails in the perpetration of such larceny or felony, be guilty of a felony, punishable by imprisonment in the state prison for life or any term of years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.531.

Former law: See section 1 of Act 111 of 1877, being How., § 9121; CL 1897, § 506; CL 1915, § 15229; and CL 1929, § 16748.

CHAPTER LXXIX
SEDUCTION

750.532 Seduction; punishment.

Sec. 532. Punishment—Any man who shall seduce and debauch any unmarried woman shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or by fine of not more than 2,500 dollars; but no prosecution shall be commenced under this section after 1 year from the time of committing the offense.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.532.

Former law: See section 7 of Ch. 158 of R.S. 1846, being CL 1857, § 5862; CL 1871, § 7697; How., § 9283; CL 1897, § 11694; CL 1915, § 15468; and CL 1929, § 16823.

CHAPTER LXXX
SLAUGHTER HOUSES

750.533 Slaughter houses; within 20 rods of highway.

Sec. 533. Slaughter houses within 20 rods of highway—Any person who shall keep or maintain any slaughter-house, slaughter-yard or slaughter-pen, or any other place for slaughtering or killing any animals, or rendering dead animals as a business, within 20 rods of any public highway within this state, or in any other place except as provided in section 6521 of the Compiled Laws of 1929 and amendments thereto, shall be guilty of a misdemeanor: Provided, That the provisions of this section shall not apply within the limits of incorporated villages and cities.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.533.

Compiler's note: Section 6521 of CL 1929, referred to in this section, was repealed by Act 66 of 1960 and Act 368 of 1978.

Former law: See sections 50 and 51 of Ch. 35 of R.S. 1846, being How., §§ 1682 and 1683; CL 1897, §§ 11433 and 11434; CL 1915, §§ 15151 and 15152; CL 1929, §§ 6525 and 6526; and Act 232 of 1879.

750.534 Slaughter houses; water supply, sewerage and drainage.

Sec. 534. Slaughter houses to have adequate water supply, sewerage and drainage—Any person or his agent who shall keep or maintain in any city or within 1 mile of the limits of any city or park, or within 30 rods of any highway or street car line, any slaughter-house, slaughter-yard or slaughter-pen or any other place for slaughtering or killing any animals, or for rendering dead animals, unless such place shall be supplied with an adequate supply of water for daily and constant flushing and purifying of the place, and with adequate sewerage and drainage for the speedy removal of all blood and other fluid refuse from such slaughtering, killing or rendering, shall be guilty of a misdemeanor.

Nuisance—Any person or his agent in charge of any slaughter-house, slaughter-yard or slaughter-pen in or within 1 mile of any city or park, or within 30 rods of any highway or street car line, who shall dispose of any offal, heads, horns, hides or other portions of any dead animals in such manner as to be a nuisance, or contrary to the rules of the local board of health, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.534.

Former law: See sections 1 to 3 of Act 97 of 1901, being CL 1915, §§ 5161 to 5163; and CL 1929, §§ 6538 to 6540.

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750.535 Buying, receiving, possessing, concealing, or aiding in concealment of stolen, embezzled, or converted property or motor vehicle; violation; penalty; rebuttable presumption; enhanced sentence based on prior convictions.

Sec. 535. (1) A person shall not buy, receive, possess, conceal, or aid in the concealment of stolen, embezzled, or converted money, goods, or property knowing the money, goods, or property is stolen, embezzled, or converted.

(2) If any of the following apply, a person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine:

(a) The property purchased, received, possessed, or concealed has a value of $20,000.00 or more.

(b) The person violates subsection (3)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(3) If any of the following apply, a person who violates subsection (1) 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 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine:

(a) The property purchased, received, possessed, or concealed has a value of $1,000.00 or more but less than $20,000.00.

(b) The person violates subsection (4)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(4) If any of the following apply, a person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine:

(a) The property purchased, received, possessed, or concealed has a value of $200.00 or more but less than $1,000.00.

(b) The person violates subsection (5) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(5) If the property purchased, received, possessed, or concealed has a value of less than $200.00, 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 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine.

(6) The values of property purchased, received, possessed, or concealed in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property purchased, received, possessed, or concealed.

(7) A person shall not buy, receive, possess, conceal, or aid in the concealment of a stolen motor vehicle knowing that the motor vehicle is stolen, embezzled, or converted. 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 $10,000.00 or 3 times the value of the motor vehicle purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine. A person who is charged with, convicted of, or punished for a violation of this subsection shall not be convicted of or punished for a violation of another provision of this section arising from the purchase, receipt, possession, concealment, or aiding in the concealment of the same motor vehicle. This subsection does not prohibit the person from being charged, convicted, or punished under any other applicable law.

(8) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

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(d) The defendant's statement.

(9) A person who is a dealer in or collector of merchandise or personal property, or the agent, employee, or representative of a dealer or collector of merchandise or personal property who fails to reasonably inquire whether the person selling or delivering the stolen, embezzled, or converted property to the dealer or collector has a legal right to do so or who buys or receives stolen, embezzled, or converted property that has a registration, serial, or other identifying number altered or obliterated on an external surface of the property, is presumed to have bought or received the property knowing the property is stolen, embezzled, or converted. This presumption is rebuttable.

(10) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1941, Act 11, Eff. Jan. 10, 1942;—CL 1948, 750.535;—Am. 1952, Act 40, Eff. Sept. 18, 1952;—Am. 1957, Act 69, Eff. Sept. 27, 1957;—Am. 1972, Act 242, Eff. Mar. 30, 1973;—Am. 1974, Act 55, Imd. Eff. Apr. 1, 1974;—Am. 1979, Act 11, Eff. Mar. 27, 1980;—Am. 1998, Act 311, Eff. Jan. 1, 1999;—Am. 2002, Act 720, Eff. Apr. 1, 2003.

Constitutionality: The statutory presumption in § 750.535(2) that a dealer in personal property is presumed to know that property received with an altered serial number is stolen does not violate due process requirements because there is a rational connection between the proven facts and the fact presumed. People v. Gallagher, 404 Mich. 429, 273 N.W.2d 440 (1979).

Former law: See section 20 of Ch. 154 of R.S. 1846, being CL 1857, § 5764; CL 1871, § 7571; How., § 9142; CL 1897, § 11556; CL 1915, § 15301; CL 1929, § 16902; and Act 220 of 1897.

750.535a Definitions; owning, operating, or conducting chop shop; aiding and abetting; felony; penalty; second or subsequent conviction; restitution; property subject to seizure or forfeiture; process; seizure without process; bond; duties of seizing law enforcement agency; return of property; hearing; notice to rightful owner; interest of secured party; return of property seized to rightful owner; sale of unclaimed stolen property; sale of forfeited property; distribution of proceeds; enhancement of law enforcement efforts; applicability of section.

Sec. 535a. (1) As used in this section:

(a) "Bona fide purchaser for value" means a person who purchases property for value in good faith and without notice of any adverse claim to the property.

(b) "Chop shop" means any of the following:

(*i*) Any area, building, storage lot, field, or other premises or place where 1 or more persons are engaged or have engaged in altering, dismantling, reassembling, or in any way concealing or disguising the identity of a stolen motor vehicle or of any major component part of a stolen motor vehicle.

(*ii*) Any area, building, storage lot, field, or other premises or place where there are 3 or more stolen motor vehicles present or where there are major component parts from 3 or more stolen motor vehicles present.

(c) "Major component part" means 1 of the following parts of a motor vehicle:

(*i*) The engine.

(*ii*) The transmission.

(*iii*) The right or left front fender.

(*iv*) The hood.

(*v*) A door allowing entrance to or egress from the passenger compartment of the vehicle.

(*vi*) The front or rear bumper.

(*vii*) The right or left rear quarter panel.

(*viii*) The deck lid, tailgate, or hatchback.

(*ix*) The trunk floor pan.

(*x*) The cargo box of a pickup.

(*xi*) The frame, or if the vehicle has a unitized body, the supporting structure or structures that serve as the frame.

(*xii*) The cab of a truck.

(*xiii*) The body of a passenger vehicle.

(*xiv*) An airbag or airbag assembly.

(*xv*) A wheel or tire.

(*xvi*) Any other part of a motor vehicle that the secretary of state determines is comparable in design or function to any of the parts listed in subparagraphs (*i*) to (*xv*).

(d) "Motor vehicle" means either of the following:

(*i*) A device in, upon, or by which a person or property is or may be transported or drawn upon a highway that is self-propelled or that may be connected to and towed by a self-propelled device.

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(*ii*) A land-based device that is self-propelled but not designed for use upon a highway, including, but not limited to, farm machinery, a bulldozer, or a steam shovel.

(2) Except as provided in subsection (3), a person who knowingly owns, operates, or conducts a chop shop or who knowingly aids and abets another person in owning, operating, or conducting a chop shop is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $250,000.00, or both.

(3) Upon a second or subsequent conviction under this section, the person convicted may be imprisoned for not more than 10 years and shall be fined not less than $10,000.00 or more than $250,000.00, or both.

(4) In addition to any other punishment, a person convicted of violating this section shall be ordered to make restitution to the rightful owner of a stolen motor vehicle or of a stolen major component part, or to the owner's insurer if the owner has already been compensated for the loss by the insurer, for any financial loss sustained as a result of the theft of the motor vehicle or a major component part. Restitution shall be imposed in addition to, but not instead of, any imprisonment or fine imposed.

(5) All of the following are subject to seizure and, if a person is charged with a violation or attempted violation of subsection (2) and is convicted of a violation or attempted violation of subsection (2) or section 415, 416, 535, or 536a, subject to forfeiture:

(a) An engine, tool, machine, implement, device, chemical, or substance used or designed for altering, dismantling, reassembling, or in any other way concealing or disguising the identity of a stolen motor vehicle or any major component part.

(b) A stolen motor vehicle or major component part found at the site of a chop shop or a motor vehicle or major component part for which there is probable cause to believe that it is stolen.

(c) A wrecker, car hauler, or any other motor vehicle that is used or has been used to convey or transport a stolen motor vehicle or major component part.

(d) Any book, record, money, negotiable instrument, or other personal property or real property, except real property that is the primary residence of the spouse or a dependent child of the owner, that is or has been used in a chop shop operation.

(6) Except as provided in subsection (7), property described in subsection (5) may be seized by a state or local law enforcement agency upon process issued by the recorder's court of the city of Detroit or the district or circuit court having jurisdiction over the property. Seizure without process may be made in any of the following cases:

(a) The seizure is incident to an arrest or pursuant to a search warrant or an inspection under an administrative inspection warrant.

(b) The property subject to seizure has been the subject of a prior judgment in favor of this state in a forfeiture proceeding based upon this section.

(c) Exigent circumstances exist that preclude obtaining process and there is probable cause to believe that the property was used or is intended to be used in violation of this section.

(7) To retain property for which seizure and forfeiture are sought under this section pending the forfeiture hearing, a licensed used or secondhand vehicle parts dealer or the owner may post a bond in the amount of 1-1/2 times the value of the property. This subsection does not apply to a motor vehicle or major component part that is to be used as evidence in a criminal proceeding.

(8) If property other than real property is seized under subsection (6), the seizing law enforcement agency shall do 1 or more of the following, subject to subsection (9):

(a) Place the property under seal.

(b) Remove the property to a designated storage area.

(c) Petition the recorder's court of the city of Detroit or the district or circuit court to appoint a custodian to take custody of the property and to remove it to an appropriate location for disposition in accordance with law.

(9) If property is seized without process under subsection (6), within 14 days after the seizure, the seizing agency shall return the property to the person from whom it was seized unless a hearing has been scheduled to determine whether the seizure was proper and reasonable notice of the hearing has been given.

(10) The rightful owner of any property that is to be forfeited under subsection (5) shall be served notice at least 10 days before the matter is to be heard regarding the forfeiture and, if the rightful owner did not know of and did not consent to the commission of the crime, the property shall be returned to the rightful owner. If the rightful owner of the property is not known or cannot be found, notice may be served by publishing notice of the forfeiture hearing not less than 10 days before the date of the hearing in a newspaper of general circulation in the county where the hearing is to be held. The notice shall contain a general description of the property and any serial or registration numbers on the property.

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(11) A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party who did not know of or consent to the act or omission in violation of this section.

(12) Any property seized under subsection (6) that was stolen shall be returned to its rightful owner if that ownership can be established to the satisfaction of the seizing law enforcement agency. Any stolen property that is unclaimed after seizure may be sold as provided by law.

(13) Any property forfeited under this section may be sold pursuant to an order of the court. The proceeds of the sale shall be distributed by the court having jurisdiction over the forfeiture proceeding to the entity having budgetary authority over the seizing law enforcement agency. If more than 1 law enforcement agency was substantially involved in effecting the forfeiture, the court having jurisdiction over the forfeiture proceeding shall distribute equitably the proceeds of the sale among the entities having budgetary authority over the seizing law enforcement agencies. Twenty-five percent of the money received by an entity under this subsection shall be used to enhance law enforcement efforts pertaining to this section.

(14) This section does not apply to a person who is a bona fide purchaser for value of the motor vehicle or major component parts described in subsection (1).

History: Add. 1984, Act 407, Eff. Apr. 1, 1985;—Am. 1988, Act 140, Imd. Eff. June 3, 1988;—Am. 1999, Act 185, Eff. Apr. 1, 2000.

750.535b Transporting or shipping stolen firearm or stolen ammunition as felony; receiving, concealing, storing, bartering, selling, disposing of, pledging, or accepting as security for a loan a stolen firearm as felony; penalties.

Sec. 535b. (1) A person who transports or ships a stolen firearm or stolen ammunition, knowing that the firearm or ammunition was stolen, is guilty of a felony, punishable by imprisonment for not more than 10 years or by a fine of not more than $5,000.00, or both.

(2) A person who receives, conceals, stores, barters, sells, disposes of, pledges, or accepts as security for a loan a stolen firearm or stolen ammunition, knowing that the firearm or ammunition was stolen, is guilty of a felony, punishable by imprisonment for not more than 10 years or by a fine of not more than $5,000.00, or both.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991.

750.536 Conviction for larceny not essential.

Sec. 536. In any prosecution of the offense of buying, receiving or aiding in the concealment of stolen, embezzled or converted money or other property it shall not be necessary to aver, nor on the trial thereof to prove that the person who stole, embezzled or converted such property has been convicted.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.536;—Am. 1952, Act 40, Eff. Sept. 18, 1952.

Former law: See section 23 of Ch. 154 of R.S. 1846, being CL 1857, § 5766; CL 1871, § 7573; How., § 9144; CL 1897, § 11558; CL 1915, § 15303; and CL 1929, § 16904.

750.536a Rendering goods or property unidentifiable; possession or sale of goods or property with identifying number obscured, defaced, altered, obliterated, removed, destroyed, or otherwise concealed or disguised.

Sec. 536a. (1) A person who obscures, defaces, alters, obliterates, removes, destroys, or otherwise conceals or disguises any registration, serial, or other identifying number embossed, engraved, carved, stamped, welded, or otherwise placed or situated in or upon goods or property held for sale in the ordinary course of business with the intent to render the goods or property unidentifiable shall be guilty of a misdemeanor.

(2) A person who is a dealer in or collector of any merchandise or personal property or the agent, employee, or representative of a dealer or collector and who possesses goods or property with the intent to sell the goods or property in the ordinary course of business knowing the registration, serial, or other identifying number has been obscured, defaced, altered, obliterated, removed, destroyed, or otherwise concealed or disguised shall be guilty of a misdemeanor.

(3) A person who is a dealer or collector of any merchandise or personal property or the agent, employee, or representative of a dealer or collector and who sells goods or property in the ordinary course of business knowing that the registration, serial, or other identifying number has been obscured, defaced, altered, obliterated, removed, destroyed, or otherwise concealed or disguised shall be guilty of a misdemeanor.

History: Add. 1980, Act 44, Eff. July 1, 1980;—Am. 1984, Act 407, Eff. Apr. 1, 1985.

750.537 Copper or silver ore; barter, transfer, or sale; memorandum of sale; certificate; applicability; violation as misdemeanor.

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Sec. 537. A person working in any copper or silver mine of this state, or any person in behalf of such person, shall not sell, barter, transfer, or ship any copper or silver ore, bullion, pig, or copper or silver in the raw or unmanufactured state, and shall not be a party to any barter, transfer, or sale, or aid or assist therein, unless a memorandum be filed with the county clerk of the county where the barter, transfer, or sale shall take place, giving the names of the parties making such barter, transfer, sale, or shipment, the dates, consideration, and the origin of the copper or silver so bartered, transferred, sold, or shipped, and in all cases where the origin of said copper or silver is not known to the parties, no barter, transfer, sale, or shipment shall be made without a certificate being attached to such memorandum of sale duly signed by the county clerk or by a constable or deputy sheriff, judge, stating in substance that he or she has investigated the source or origin of the copper or silver so to be bartered, transferred, sold, or shipped and that in his or her opinion the articles have not been stolen, and that the parties thereto have a right to transfer or sell the articles. This section does not apply to any person authorized to act in behalf of a person, firm, or corporation engaged in the business of mining copper or silver as owner. Any person violating the provisions of 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.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.537;—Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 1 and 3 of Act 281 of 1925, being CL 1929, §§ 9837 and 9839.

750.538 Copper or silver ore; sales, transfers, or shipments; memorandum of sale; certificate; violation as misdemeanor; penalty.

Sec. 538. (1) Any sales, transfers, or shipments of copper or silver ore, bullion, pig, or copper or silver in the raw or unmanufactured state in any county of this state where copper and silver are mined, by any person not engaged in the business of mining or producing copper or silver ore, bullion, pig, or copper or silver in the unmanufactured state, shall be unlawful unless and until a memorandum thereof shall be filed with the county clerk of the county where such sale or transfer shall take place, giving the names of the parties, the dates, consideration, and origin of the copper or silver so sold, transferred, or shipped or offered for sale, transfer, or shipping; and in all cases where the origin of the copper or silver is not known, no sale, transfer, or shipment shall be made without a certificate being attached to such memorandum of sale duly signed by the county clerk, constable, or deputy sheriff, stating in substance that he or she has investigated the source or origin of the copper or silver offered for sale, transfer, or shipment, and that in his or her opinion the articles have not been stolen, and that the parties thereto have a right to sell, transfer, and ship the same.

(2) Any person violating 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.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.538;—Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 2 and 3 of Act 281 of 1925, being CL 1929, §§ 9838 and 9839.

CHAPTER LXXXII
TELEGRAPH AND TELEPHONE

750.539 Divulging contents of messages.

Sec. 539. Divulging contents of messages—Any person connected with a telegraph, telephone or messenger company, incorporated or unincorporated, operating a line of telegraph or telephone, or engaged in the business of receiving and delivering messages in this state, in any capacity, who wilfully divulges the contents or the nature of the contents of a communication entrusted to him for transmission or delivery, or who wilfully refuses or neglects to transmit or deliver the same, or who wilfully delays the transmission or delivery of the same, or who wilfully forges the name of the receiver to any receipt for any such message or communication or article of value entrusted to him by such company, with a view to injure, deceive or defraud the sender or intended receiver thereof, or any such telephone, telegraph or messenger company or to benefit himself or any other person, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.539.

Former law: See section 1 of Act 68 of 1853, being CL 1857, § 5912; CL 1871, § 7768; How., § 9357; CL 1897, § 11386; CL 1915, § 15104; CL 1929, § 17047; and Act 187 of 1901.

750.539a Definitions.

Sec. 539a. As used in sections 539a to 539i:

(1) "Private place" means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance but does not include a place to which the public or substantial group of the public has

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access.

(2) "Eavesdrop" or "eavesdropping" means to overhear, record, amplify or transmit any part of the private discourse of others without the permission of all persons engaged in the discourse. Neither this definition or any other provision of this act shall modify or affect any law or regulation concerning interception, divulgence or recording of messages transmitted by communications common carriers.

(3) "Surveillance" means to secretly observe the activities of another person for the purpose of spying upon and invading the privacy of the person observed.

(4) "Person" means any individual, partnership, corporation or association.

History: Add. 1966, Act 319, Eff. Mar. 10, 1967.

750.539b Trespassing for purpose of eavesdropping or surveillance.

Sec. 539b. A person who trespasses on property owned or under the control of any other person, to subject that person to eavesdropping or surveillance is guilty of a misdemeanor.

History: Add. 1966, Act 319, Eff. Mar. 10, 1967.

750.539c Eavesdropping upon private conversation.

Sec. 539c. Any person who is present or who is not present during a private conversation and who wilfully uses any device to eavesdrop upon the conversation without the consent of all parties thereto, or who knowingly aids, employs or procures another person to do the same in violation of this section, is guilty of a felony punishable by imprisonment in a state prison for not more than 2 years or by a fine of not more than $2,000.00, or both.

History: Add. 1966, Act 319, Eff. Mar. 10, 1967.

750.539d Installation, placement, or use of device for observing, recording, transmitting, photographing or eavesdropping in private place.

Sec. 539d. (1) Except as otherwise provided in this section, a person shall not do either of the following:

(a) Install, place, or use in any private place, without the consent of the person or persons entitled to privacy in that place, any device for observing, recording, transmitting, photographing, or eavesdropping upon the sounds or events in that place.

(b) Distribute, disseminate, or transmit for access by any other person a recording, photograph, or visual image the person knows or has reason to know was obtained in violation of this section.

(2) This section does not prohibit security monitoring in a residence if conducted by or at the direction of the owner or principal occupant of that residence unless conducted for a lewd or lascivious purpose.

(3) A person who violates or attempts to violate this section is guilty of a crime as follows:

(a) For a violation or attempted violation of subsection (1)(a):

(*i*) Except as provided in subparagraph (*ii*), the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(*ii*) If the person was previously convicted of violating or attempting to violate this section, the person 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.

(b) For a violation or attempted violation of subsection (1)(b), the person 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.

(4) 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 subsection (1)(a) or (b).

History: Add. 1966, Act 319, Eff. Mar. 10, 1967;—Am. 2004, Act 156, Eff. Sept. 1, 2004.

750.539e Use or divulgence of information unlawfully obtained.

Sec. 539e. Any person who uses or divulges any information which he knows or reasonably should know was obtained in violation of sections 539b, 539c or 539d is guilty of a felony, punishable by imprisonment in a state prison not more than 2 years, or by a fine of not more than $2,000.00.

History: Add. 1966, Act 319, Eff. Mar. 10, 1967.

750.539f Unlawful manufacture, possession or transfer of eavesdropping devices.

Sec. 539f. Any person who manufactures, possesses or transfers to another any device, contrivance, machine or apparatus designed or commonly used for eavesdropping with the intent to unlawfully use or employ or allow the same to be so used or employed for eavesdropping, and knowing the same is intended to be so used, is guilty of a felony, punishable by imprisonment in a state prison not more than 2 years, or by a

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fine of not more than $2,000.00, or both.

History: Add. 1966, Act 319, Eff. Mar. 10, 1967.

750.539g Exceptions.

Sec. 539g. Sections 539a to 539f do not prohibit any of the following:

(a) Eavesdropping or surveillance not otherwise prohibited by law by a peace officer of this state or of the federal government, or the officer's agent, while in the performance of the officer's duties.

(b) Hearing a communication transmitted by common carrier facilities by an employee of a communications common carrier when acting in the course of his or her employment.

(c) The recording by a public utility of telephone communications to it requesting service or registering a complaint by a customer, if a record of the communications is required for legitimate business purposes and the agents, servants, and employees of the public utility are aware of the practice or surveillance by an employee safeguarding property owned by, or in custody of, his or her employer on his or her employer's property.

(d) The routine monitoring, including recording, by employees of the department of corrections of telephone communications on telephones available for use by prisoners in state correctional facilities, if the monitoring is conducted in the manner prescribed by section 70 of Act No. 232 of the Public Acts of 1953, being section 791.270 of the Michigan Compiled Laws, and rules promulgated under that section.

History: Add. 1966, Act 319, Eff. Mar. 10, 1967;—Am. 1993, Act 227, Eff. Nov. 22, 1993.

750.539h Civil remedies.

Sec. 539h. Any parties to any conversation upon which eavesdropping is practiced contrary to this act shall be entitled to the following civil remedies:

(a) An injunction by a court of record prohibiting further eavesdropping.

(b) All actual damages against the person who eavesdrops.

(c) Punitive damages as determined by the court or by a jury.

History: Add. 1966, Act 319, Eff. Mar. 10, 1967.

750.539i Proof of installation of device as prima facie evidence of violation.

Sec. 539i. In any criminal or civil action, proof of the installation in any private place of any device which may be used for the purposes of violating the provisions of this act shall be prima facie evidence of a violation of section 539d.

History: Add. 1966, Act 319, Eff. Mar. 10, 1967.

750.539j Surveillance of or distribution, dissemination, or transmission of recording, photograph, or visual image of individual having reasonable expectation of privacy; prohibited conduct; violation as felony; penalty; exceptions; "surveil" defined.

Sec. 539j. (1) A person shall not do any of the following:

(a) Surveil another individual who is clad only in his or her undergarments, the unclad genitalia or buttocks of another individual, or the unclad breasts of a female individual under circumstances in which the individual would have a reasonable expectation of privacy.

(b) Photograph, or otherwise capture or record, the visual image of the undergarments worn by another individual, the unclad genitalia or buttocks of another individual, or the unclad breasts of a female individual under circumstances in which the individual would have a reasonable expectation of privacy.

(c) Distribute, disseminate, or transmit for access by any other person a recording, photograph, or visual image the person knows or has reason to know was obtained in violation of this section.

(2) A person who violates or attempts to violate this section is guilty of a crime as follows:

(a) For a violation or attempted violation of subsection (1)(a):

(*i*) Except as provided in subparagraph (*ii*), the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(*ii*) If the person was previously convicted of violating or attempting to violate subsection (1)(a), the person 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.

(b) For a violation or attempted violation of subsection (1)(b) or (c), the person 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.

(3) 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 subsection (1)(a) to (c).

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(4) This section does not prohibit security monitoring in a residence if conducted by or at the direction of the owner or principal occupant of that residence unless conducted for a lewd or lascivious purpose.

(5) This section does not apply to a peace officer of this state or of the federal government, or the officer's agent, while in the performance of the officer's duties.

(6) As used in this section, "surveil" means to subject an individual to surveillance as that term is defined in section 539a.

History: Add. 2004, Act 155, Eff. Sept. 1, 2004.

750.539k Personal identifying information; prohibited conduct; exception; violation as misdemeanor; penalty; definitions.

Sec. 539k. (1) A person who is not a party to a transaction that involves the use of a financial transaction device shall not secretly or surreptitiously photograph, or otherwise capture or record, electronically or by any other means, or distribute, disseminate, or transmit, electronically or by any other means, personal identifying information from the transaction without the consent of the individual.

(2) This section does not prohibit the capture or transmission of personal identifying information in the ordinary and lawful course of business.

(3) This section does not apply to a peace officer of this state, or of the federal government, or the officer's agent, while in the lawful performance of the officer's duties.

(4) 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.

(5) 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.

(6) As used in this section:

(a) "Financial transaction device" means that term as defined in section 157m.

(b) "Personal identifying information" means that term as defined in section 3 of the identity theft protection act, MCL 445.63.

History: Add. 2004, Act 460, Eff. Mar. 1, 2005.

750.540 Cutting, breaking, tapping, connecting line, wire or cable.

Sec. 540. Cutting, tapping, using, etc., telephone or telegraph wires, etc.—Any person who shall wilfully and maliciously cut, break, tap or make any connection with, or read, or copy, by the use of telegraph or telephone instruments, or otherwise, in any unauthorized manner, any message, either social or business, sporting, commercial or other news reports, from any telegraph or telephone line, wire or cable so unlawfully cut or tapped in this state; or make unauthorized use of the same, or who shall wilfully and maliciously prevent, obstruct or delay by any means or contrivance whatsoever the sending, conveyance or delivery, in this state, of any authorized communication, sporting, commercial or other news reports, by or through any telegraph or telephone line, cable or wire under the control of any telegraph or telephone company doing business in this state, or who shall wilfully and maliciously aid, agree with, employ, or conspire with any other person or persons to do any of the aforementioned unlawful acts, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison not more than 2 years, or by a fine of not more than 1,000 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.540.

Former law: See section 1 of Act 113 of 1893, being CL 1897, § 11637; CL 1915, § 15403; and CL 1929, § 17046.

750.540a Party line, emergency, defined; refusal to yield or surrender use of line; pretext; penalty.

Sec. 540a. "Party line" as used in this section means a subscribers' line telephone circuit, consisting of 2 or more main telephone stations connected therewith, each station with a distinctive ring or telephone number. "Emergency" as used in this section means a situation in which property or human life are in jeopardy and the prompt summoning of aid is essential.

Any person who shall wilfully refuse to yield or surrender the use of a party line to another person for the purpose of permitting such other person to report a fire or summon police, medical or other aid in case of emergency, shall be deemed guilty of a misdemeanor.

Any person who shall ask for or request the use of a party line on pretext that an emergency exists, knowing that no emergency in fact exists, shall be deemed guilty of a misdemeanor.

History: Add. 1952, Act 56, Eff. Sept. 18, 1952.

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750.540b Notice contained in telephone directory, printing; exception.

Sec. 540b. On and after the ninetieth day following the effective date of this amendment, every telephone directory thereafter distributed to the members of the general public in this state or in any portion thereof which lists the calling numbers of telephones of any telephone exchange located in this state shall contain a notice which explains the offense provided for in section 540a, such notice to be printed in type which is not smaller than any other type on the same page and to be preceded by the word "warning" printed in type at least as large as the largest type on the same page: Provided, That the provisions of this section shall not apply to those directories distributed solely for business advertising purposes, commonly known as classified directories, nor to any telephone directory first distributed to the general public prior to the date specified above. Any person, firm or corporation providing telephone service which distributes or causes to be distributed in this state 1 or more copies of a telephone directory which is subject to the provisions of this section and which does not contain the notice herein provided for shall be guilty of a misdemeanor.

History: Add. 1952, Act 56, Eff. Sept. 18, 1952.

750.540c Prohibited conduct with regard to telecommunications access device; "materials" defined; violation as felony; penalty; amateur radio service; forfeiture; order; definitions.

Sec. 540c. (1) A person shall not assemble, develop, manufacture, possess, deliver, or use any type telecommunications access device with the intent to defraud by doing, but not limited to, any of the following:

(a) Obtain or attempt to obtain a telecommunications service in violation of section 219a.

(b) Conceal the existence or place of origin or destination of any telecommunications service.

(c) To receive, disrupt, decrypt, transmit, retransmit, acquire, or intercept any telecommunications service without the express authority of the telecommunications service provider.

(2) A person shall not modify, alter, program, or reprogram a telecommunications access device to commit an act prohibited under subsection (1).

(3) A person shall not deliver or advertise plans, written instructions, or materials for the manufacture, assembly, or development of an unlawful telecommunications access device. As used in this subsection, "materials" includes any hardware, cables, tools, data, computer software, or other information or equipment used or intended for use in the manufacture, assembly, or development of any type of a telecommunications access device.

(4) A person who violates subsection (1), (2), or (3) 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. Each unlawful telecommunications access device or telecommunications access device is considered a separate violation.

(5) This section does not prohibit or restrict the possession of radio receivers or transceivers by licensees of the federal communications commission in the amateur radio service that are intended primarily or exclusively for use in the amateur radio service.

(6) Any unlawful telecommunications access device involved in violation of this section is subject to forfeiture in the same manner as provided in sections 4701 to 4709 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709, and the court may order either of the following:

(a) Destroyed or retained as provided under section 540d.

(b) Returned to the telecommunications service provider if the device is owned or controlled by the provider or disposed of as provided under section 540d.

(7) The court shall order a person convicted of violating subsection (1), (2), or (3) to make restitution in accordance with section 1a of the code of criminal procedure, 1927 PA 175, MCL 769.1a.

(8) A violation of subsection (1), (2), or (3) is considered to have occurred at the place where the person manufactures, assembles, develops, or designs any type of telecommunications access device, or the places where the device is sold or delivered to another person.

(9) As used in this section and sections 540f and 540g:

(a) "Deliver" means to actually or constructively sell, give, loan, lease, or otherwise transfer a telecommunications access device, unlawful telecommunications access device, and plans, written instructions, or materials concerning the devices to another person.

(b) "Telecommunications access device" shall have the same meaning as in section 219a.

(c) "Telecommunications service" shall have the same meaning as in section 219a.

(d) "Telecommunications service provider" shall have the same meaning as in section 219a.

(e) "Telecommunications system" shall have the same meaning as in section 219a.

(f) "Unlawful telecommunications access device" shall have the same meaning as in section 219a.

History: Add. 1966, Act 75, Eff. Mar. 10, 1967;—Am. 1982, Act 287, Imd. Eff. Oct. 7, 1982;—Am. 1984, Act 375, Eff. Mar. 29, 1985;—Am. 1996, Act 329, Eff. Apr. 1, 1997;—Am. 1996, Act 557, Eff. Mar. 31, 1997;—Am. 2002, Act 672, Eff. Mar. 31, 2003;—Am.

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2004, Act 1, Imd. Eff. Feb. 12, 2004.

750.540d Seizure of devices, plans, instructions, or materials.

Sec. 540d. Any telecommunications access device, unlawful telecommunications access device, plans, instructions, or materials described in section 540c may be seized under warrant or incident to a lawful arrest. Upon conviction of a person for violation of section 540c, all of the following apply to the telecommunications device, counterfeit telecommunications device, plans, instructions, or materials involved in the violation that are seized under this section:

(a) The telecommunications access device or materials shall be returned to the lawful owner of that device or materials unless he or she was convicted of the violation or had prior actual knowledge of and consented to the violation or unless the lawful owner cannot be determined or located.

(b) The unlawful telecommunications access device, plans, or instructions and any telecommunications access device or materials not required to be returned to the lawful owner under subdivision (a) may be destroyed as contraband by the seizing law enforcement agency or retained and used by the seizing law enforcement agency for law enforcement purposes.

(c) Any telecommunications access device or materials not required to be returned to the lawful owner under subdivision (a) may be turned over by the seizing law enforcement agency to the telecommunications service provider in the territory in which the seizure occurred.

History: Add. 1966, Act 75, Eff. Mar. 10, 1967;—Am. 1996, Act 329, Eff. Apr. 1, 1997;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

750.540e Malicious use of service provided by telecommunications service provider.

Sec. 540e. (1) A person is guilty of a misdemeanor who maliciously uses any service provided by a telecommunications service provider with intent to terrorize, frighten, intimidate, threaten, harass, molest, or annoy another person, or to disturb the peace and quiet of another person by any of the following:

(a) Threatening physical harm or damage to any person or property in the course of a conversation or message through the use of a telecommunications service or device.

(b) Falsely and deliberately reporting by message through the use of a telecommunications service or device that a person has been injured, has suddenly taken ill, has suffered death, or has been the victim of a crime or an accident.

(c) Deliberately refusing or failing to disengage a connection between a telecommunications device and another telecommunications device or between a telecommunications device and other equipment provided for the transmission of messages through the use of a telecommunications service or device.

(d) Using vulgar, indecent, obscene, or offensive language or suggesting any lewd or lascivious act in the course of a conversation or message through the use of a telecommunications service or device.

(e) Repeatedly initiating a telephone call and, without speaking, deliberately hanging up or breaking the telephone connection as or after the telephone call is answered.

(f) Making an unsolicited commercial telephone call that is received between the hours of 9 p.m. and 9 a.m. For the purpose of this subdivision, "an unsolicited commercial telephone call" means a call made by a person or recording device, on behalf of a person, corporation, or other entity, soliciting business or contributions.

(g) Deliberately engaging or causing to engage the use of a telecommunications service or device of another person in a repetitive manner that causes interruption in telecommunications service or prevents the person from utilizing his or her telecommunications service or device.

(2) A person violating this section may be imprisoned for not more than 6 months or fined not more than $1,000.00, or both. An offense is committed under this section if the communication either originates or terminates in this state and may be prosecuted at the place of origination or termination.

(3) As used in this section, "telecommunications", "telecommunications service", and "telecommunications device" mean those terms as defined in section 540c.

History: Add. 1969, Act 328, Eff. Mar. 20, 1970;—Am. 1988, Act 395, Eff. Mar. 30, 1989;—Am. 2002, Act 577, Eff. Nov. 1, 2002.

750.540f Telecommunications access device; use in violation of § 750.219a; misdemeanor; violation of subsection (1) and previous conviction as felony; prior conviction; definitions.

Sec. 540f. (1) Except as provided in subsection (2), a person who knowingly or intentionally publishes a telecommunications access device or unlawful telecommunications access device with the intent that it be used or knowing or having reason to know that it will be used or is likely to be used to violate section 219a 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.

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(2) A person who violates subsection (1) and has a previous conviction for a violation of section 219a or 540c or former section 219c 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. For purposes of imposing fines under this section for a repeat offender, the fines shall be imposed for each telecommunications access device and unlawful telecommunications access device involved in the violation.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having a prior conviction, the prosecuting attorney shall include on the complaint and information a statement listing that prior conviction. The existence of the defendant's prior conviction shall be determined by the court, without a jury, at sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(4) As used in this section:

(a) "Publish" means to communicate information or make information available to 1 or more persons orally, in writing, or by means of any telecommunications. Publish includes, but is not limited to, communicating information on a computer bulletin board or similar system.

(b) "Telecommunications access device" shall have the same meaning as in section 219a.

(c) "Unlawful telecommunications access device" shall have the same meaning as in section 219a.

History: Add. 1996, Act 333, Eff. Apr. 1, 1997;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

750.540g Telecommunications service; unauthorized use by officer, shareholder, partner, employee, agent, or independent contractor; use in separate incidents pursuant to scheme or course of conduct; enhanced sentence based on prior convictions.

Sec. 540g. (1) An officer, shareholder, partner, employee, agent, or independent contractor of a telecommunications service provider who knowingly and without authority uses or diverts telecommunications services for his or her own benefit or to the benefit of another person is guilty of a crime as follows:

(a) If the total value of the telecommunications service used or diverted is less than $200.00, 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 3 times the total value of the telecommunications service used or diverted, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the total value of the telecommunications service used or diverted, whichever is greater, or both imprisonment and a fine:

(*i*) The total value of the telecommunications service used or diverted is $200.00 or more but less than $1,000.00.

(*ii*) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(c) 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 3 times the total value of the telecommunications service used or diverted, whichever is greater, or both imprisonment and a fine:

(*i*) The total value of the telecommunications service used or diverted is $1,000.00 or more but less than $20,000.00.

(*ii*) The person violates subdivision (b)(*i*) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the telecommunications service used or diverted, whichever is greater, or both imprisonment and a fine:

(*i*) The total value of the telecommunications service used or diverted is $20,000.00 or more.

(*ii*) The person violates subdivision (c)(*i*) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(2) The values of telecommunications service used or diverted in separate incidents under a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of the telecommunications service used or diverted. The courts shall also include the value of all

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telecommunications services made available to the violator and others as a result of the violation.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction under section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: Add. 1996, Act 328, Eff. Apr. 1, 1997;—Am. 1998, Act 311, Eff. Jan. 1, 1999;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

750.540h Intent to permit or obtain unauthorized receipt of telecommunications service.

Sec. 540h. (1) Evidence of 1 or more of the following facts shall give rise to a rebuttable presumption that the conduct that violated section 540c was engaged in knowingly by the defendant with the intent to permit or obtain the unauthorized receipt, acquisition, interception, disruption, decryption, transmission, or retransmission of a telecommunications service:

(a) The presence on the defendant's property or in the actual possession of the defendant of 1 or more unlawful telecommunications access devices.

(b) The defendant installed an unauthorized connection or provided written instructions on such connection to another. An unauthorized connection does not include any of the following:

(*i*) An internal connection made by a person within his or her residence for the purpose of receiving an authorized telecommunications service.

(*ii*) The physical connection of a cable or other device by a person located within his or her residence which was initially placed there by the telecommunications service provider.

(*iii*) The physical connection of a cable or other device by a person located within his or her residence which the person had reason to believe was an authorized connection.

(c) The telecommunications service provider placed written warning labels on its telecommunications access devices explaining that tampering with a telecommunications device is a violation of law and a telecommunications device in the defendant's possession has been tampered with, altered, or modified to permit the unauthorized receipt, acquisition, interception, disruption, decryption, transmission, or retransmission of a telecommunications service.

(d) The defendant has published or advertised for sale a plan for an unlawful telecommunications access device and the publication or advertisement states or implies that the plan will enable the unauthorized receipt, acquisition, interception, disruption, decryption, transmission, or retransmission of a telecommunications service.

(e) The defendant has advertised for the sale of an unlawful telecommunications access device or kit for an unlawful telecommunications access device and the advertisement states or implies that the unlawful telecommunications access device or kit will permit the unauthorized receipt, acquisition, interception, disruption, decryption, transmission, or retransmission of a telecommunications service.

(f) The defendant has sold, leased, or offered for sale or lease an unlawful telecommunications access device, plan, or kit for an unlawful telecommunications access device and during the course of the transaction for sale or lease, the defendant stated or implied to the buyer that the unlawful telecommunications access device will permit the unauthorized receipt, acquisition, interception, disruption, decryption, transmission, or retransmission of a telecommunications service.

(g) As used in this section, "unauthorized receipt, acquisition, interception, disruption, decryption, transmission, or retransmission of a telecommunications service" means to do any of those acts without the express authority of the telecommunications service provider.

History: Add. 1996, Act 557, Eff. Mar. 31, 1997;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

CHAPTER LXXXIII
THE STAR SPANGLED BANNER

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750.541 Duty to control manner of playing.

Sec. 541. Duty to control manner of playing—No person, firm or corporation, owning or being in control as manager or otherwise, of any theatre, motion picture hall, restaurant, cafe or other places in this state where the public gathers, shall permit or allow anyone who plays, sings or performs therein to play, sing or otherwise render "The Star Spangled Banner" in violation of the provisions of this chapter.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.541.

Former law: See section 2 of Act 213 of 1917, being CL 1929, § 8901.

750.542 How played.

Sec. 542. How played—The national hymn or anthem, "The Star Spangled Banner", shall not be played, sung or otherwise rendered in this state in any public place nor at any public entertainment, nor in any theatre, motion picture hall, restaurant or cafe, except as an entire and separate composition or number and without embellishments of national or other melodies; nor shall "The Star Spangled Banner" or any part thereof or selection from the same, be played as a part or selection of a medley of any kind; nor shall "The Star Spangled Banner" be played at or in any of the places mentioned herein for dancing or as an exit march.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.542.

Former law: See section 1 of Act 213 of 1917, being CL 1929, § 8900.

750.543 Violation; punishment.

Sec. 543. Punishment—Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.543.

Former law: See section 3 of Act 213 of 1917, being CL 1929, § 8902.

CHAPTER LXXXIII-A

750.543a Short title.

Sec. 543a. This chapter shall be known and may be cited as the "Michigan anti-terrorism act".

History: Add. 2002, Act 113, Eff. Apr. 22, 2002.

750.543b Definitions.

Sec. 543b. As used in this chapter:

(a) "Act of terrorism" means a willful and deliberate act that is all of the following:

(*i*) An act that would be a violent felony under the laws of this state, whether or not committed in this state.

(*ii*) An act that the person knows or has reason to know is dangerous to human life.

(*iii*) An act that is intended to intimidate or coerce a civilian population or influence or affect the conduct of government or a unit of government through intimidation or coercion.

(b) "Dangerous to human life" means that which causes a substantial likelihood of death or serious injury or that is a violation of section 349 or 350.

(c) "Harmful biological substance", "harmful biological device", "harmful chemical substance", "harmful chemical device", "harmful radioactive material", and "harmful radioactive device" mean those terms as defined in section 200h.

(d) "Material support or resources" means currency or other financial securities, financial services, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, including any related physical assets or intangible property, or expert services or expert assistance.

(e) "Person" means an individual, agent, association, charitable organization, corporation, joint apprenticeship committee, joint stock company, labor organization, legal representative, mutual company, partnership, receiver, trust, trustee, trustee in bankruptcy, unincorporated organization, or any other legal or commercial entity.

(f) "Renders criminal assistance" means that the person with the intent to avoid, prevent, hinder, or delay the discovery, apprehension, prosecution, trial, or sentencing of a person who he or she knows or has reason to know has violated this chapter or is wanted as a material witness in connection with an act of terrorism pursuant to section 39 of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.39, does any of the following:

(*i*) Harbors or conceals that other person.

(*ii*) Warns that other person of impending discovery or apprehension.

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(*iii*) Provides that other person with money, transportation, a weapon, a disguise, or false identification, or any other means of avoiding discovery or apprehension.

(*iv*) Prevents or obstructs, by means of force, intimidation, or deception, anyone from performing an act that might aid in the discovery, apprehension, or prosecution of that other person.

(*v*) Suppresses, by any act of concealment, alteration, or destruction, any physical evidence that might aid in the discovery, apprehension, or prosecution of that other person.

(*vi*) Engages in conduct proscribed under section 120, 120a, or 122 or chapter XXXII.

(g) "Terrorist" means any person who engages or is about to engage in an act of terrorism.

(h) "Violent felony" means a felony in which an element is the use, attempted use, or threatened use of physical force against an individual, or the use, attempted use, or threatened use of a harmful biological substance, a harmful biological device, a harmful chemical substance, a harmful chemical device, a harmful radioactive substance, a harmful radioactive device, an explosive device, or an incendiary device.

History: Add. 2002, Act 113, Eff. Apr. 22, 2002.

750.543c "Terrorist organization" defined.

Sec. 543c. As used in this chapter, "terrorist organization" means an organization that, on the effective date of the amendatory act that added this section, is designated by the United States state department as engaging in or sponsoring an act of terrorism.

History: Add. 2002, Act 131, Eff. Apr. 22, 2002.

750.543f Terrorism; action; felony; penalty.

Sec. 543f. (1) A person is guilty of terrorism when that person knowingly and with premeditation commits an act of terrorism.

(2) Terrorism is a felony punishable by imprisonment for life or any term of years or a fine of not more than $100,000.00, or both. However, if death was caused by the terrorist act, the person shall be punished by imprisonment for life without eligibility for parole.

History: Add. 2002, Act 113, Eff. Apr. 22, 2002.

750.543h Hindering prosecution of terrorism; conduct; felony; penalty.

Sec. 543h. (1) A person is guilty of hindering prosecution of terrorism when he or she knowingly renders criminal assistance to a person who has violated any section of this chapter other than this section or is wanted as a material witness in connection with an act of terrorism pursuant to section 39 of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.39.

(2) This section does not apply to conduct for which a person may be punished as if he or she had committed the offense committed by another person as allowed under section 39 of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.39.

(3) Hindering prosecution of terrorism is a felony punishable as follows:

(a) Except as provided in subdivision (b), by imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both.

(b) If the person renders criminal assistance to a person who has violated section 543f, by imprisonment for life or any term of years or a fine of not more than $100,000.00, or both.

History: Add. 2002, Act 113, Eff. Apr. 22, 2002;—Am. 2002, Act 270, Imd. Eff. May 9, 2002.

750.543k Providing material support for terrorist acts or soliciting material support for terrorism as felonies; penalty.

Sec. 543k. (1) Any person who does any of the following is guilty of a crime punishable as provided in subsection (2):

(a) Knowingly raises, solicits, or collects material support or resources intending that the material support or resources will be used, in whole or in part, to plan, prepare, carry out, or avoid apprehension for committing an act of terrorism against the United States or its citizens, this state or its citizens, or a political subdivision or any other instrumentality of this state or of a local unit of government who knows that the material support or resources raised, solicited, or collected will be used by a terrorist or terrorist organization.

(b) Knowingly provides material support or resources to a person knowing that the person will use that support or those resources in whole or in part to plan, prepare, carry out, facilitate, or avoid apprehension for committing an act of terrorism against the United States or its citizens, this state or its citizens, or a political subdivision or any other instrumentality of this state or of a local unit of government.

(2) A person who violates subsection (1)(a) is guilty of soliciting material support for terrorism. A person who violates subsection (1)(b) is guilty of providing material support for terrorist acts. Soliciting material

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support for terrorism and providing material support for terrorist acts are felonies punishable by imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both.

History: Add. 2002, Act 113, Eff. Apr. 22, 2002.

750.543m Making terrorist threat or false report of terrorism; intent or capability as defense prohibited; violation as felony; penalty.

Sec. 543m. (1) A person is guilty of making a terrorist threat or of making a false report of terrorism if the person does either of the following:

(a) Threatens to commit an act of terrorism and communicates the threat to any other person.

(b) Knowingly makes a false report of an act of terrorism and communicates the false report to any other person, knowing the report is false.

(2) It is not a defense to a prosecution under this section that the defendant did not have the intent or capability of committing the act of terrorism.

(3) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both.

History: Add. 2002, Act 113, Eff. Apr. 22, 2002.

750.543p Internet or telecommunications or electronic device; prohibited use; violation as felony; penalty; definitions.

Sec. 543p. (1) A person shall not use the internet or a telecommunications device or system or other electronic device or system so as to disrupt the functions of the public safety, educational, commercial, or governmental operations within this state with the intent to commit a willful and deliberate act that is all of the following:

(a) An act that would be a felony under the laws of this state, whether or not committed in this state.

(b) An act that the person knows or has reason to know is dangerous to human life as that term is defined in section 543b of the Michigan penal code, 1931 PA 328, MCL 750.543b.

(c) An act that is intended to intimidate or coerce a civilian population or influence or affect the conduct of government or a unit of government through intimidation or coercion.

(2) A person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both.

(3) As used in this section:

(a) "Computer network", "computer system", and "internet" mean those terms as defined in section 145d.

(b) "Electronic device" means any instrument, equipment, or device having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(c) "Electronic system" includes, but is not limited to, a computer system or computer network, digital broadcast system, or satellite network.

(d) "Telecommunications device" means that term as defined in section 540c.

History: Add. 2002, Act 117, Eff. Apr. 22, 2002.

750.543r Obtaining or possessing certain information about vulnerable target; intent; felony; penalty; "vulnerable target" defined.

Sec. 543r. (1) A person shall not obtain or possess a blueprint, an architectural or engineering diagram, security plan, or other similar information of a vulnerable target, with the intent to commit an offense prohibited under this chapter.

(2) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both.

(3) As used in this section, "vulnerable target" means that term as defined in section 212a.

History: Add. 2002, Act 115, Eff. Apr. 22, 2002.

750.543x Restitution; reimbursement.

Sec. 543x. The court shall order a person who violates this chapter to make restitution to any victim in the manner provided in section 16, 44, or 76 of the crime victim's rights act, 1985 PA 87, MCL 780.766, 780.794, and 780.826, and to reimburse any governmental entity for its expenses incurred as a result of the violation, in the manner provided in section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f.

History: Add. 2002, Act 141, Eff. Apr. 22, 2002.

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750.543y Other violations arising out of same criminal transaction.

Sec. 543y. This chapter does not prohibit a person from being charged with, convicted of, or sentenced for any other violation of law arising out of the same criminal transaction as the violation of this chapter.

History: Add. 2002, Act 131, Eff. Apr. 22, 2002.

750.543z Constitutionally protected conduct; prosecution prohibited.

Sec. 543z. Notwithstanding any provision in this chapter, a prosecuting agency shall not prosecute any person or seize any property for conduct presumptively protected by the first amendment to the constitution of the United States in a manner that violates any constitutional provision.

History: Add. 2002, Act 131, Eff. Apr. 22, 2002.

CHAPTER LXXXIV
TREASON AND SUBVERSION

750.544 Treason; punishment.

Sec. 544. Any person who shall commit the crime of treason against this state shall be punished by imprisonment in a state prison for life.

No person shall be convicted of treason unless upon the testimony of 2 witnesses to the same overt act, or on confession in open court.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.544;—Am. 1963, Act 119, Eff. Sept. 6, 1963.

Former law: See sections 1 and 3 of Ch. 152 of R.S. 1846, being CL 1857, §§ 5708 and 5710; CL 1871, §§ 7507 and 7509; How., §§ 9072 and 9074; CL 1897, §§ 11302 and 11304; CL 1915, §§ 14969 and 14971; and CL 1929, §§ 16556 and 16558.

750.545 Misprision of treason.

Sec. 545. Misprision of treason—Any person who shall have knowledge of the commission of the crime of treason against this state, and shall conceal the same, and shall not, as soon as may be, disclose and make known such treason to the governor thereof, or to some judge of a court of record within this state, shall be guilty of a felony, and shall be punished by imprisonment in the state prison not more than 5 years, or by a fine of not more than 2,500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.545.

Former law: See section 2 of Ch. 152 of R.S. 1846, being CL 1857, § 5709; CL 1871, § 7508; How., § 9073; CL 1897, § 11303; CL 1915, § 14970; and CL 1929, § 16557.

750.545a-750.545d Repealed. 1978, Act 571, Imd. Eff. Jan. 2, 1979.

Compiler's note: The repealed sections pertained to subversion against state.

CHAPTER LXXXV
TRESPASS

750.546 Wilful trespass; by cutting or destroying property.

Sec. 546. Wilful trespass by cutting or destroying wood, gravel, grain, etc.—Any person who shall wilfully commit any trespass, by cutting down or destroying any timber or wood, standing or growing on the land of another, or by carrying away any kind of timber or wood, cut down or lying on such land, or by digging up or carrying away any stone, ore, gravel, clay, sand, turf or mould from such land, or any roots, fruit or plant there being, or by cutting down or carrying away any grass, hay, or any kind of grain standing, growing or being on such land, or by carrying away from any wharf or landing place, railroad depot or warehouse, any goods whatever in which he has no interest or property, without the license of the owner, of the value of 5 dollars or more, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.546.

Former law: See section 51 of Ch. 154 of R.S. 1846, being CL 1857, § 5795; CL 1871, § 7602; How., § 9173; CL 1897, § 11587; CL 1915, § 15332; and CL 1929, § 16928.

750.547 Wilful trespass; entering improved land of another.

Sec. 547. Wilful trespass by entering improved land of another with intent to injure or destroy—Any person who shall wilfully commit any trespass by entering upon the garden, orchard or other improved land of another, without permission of the owner thereof, and with intent to cut, take, carry away, destroy or injure the trees, grain, grass, hay, fruit or vegetables there growing or being, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.547.

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Former law: See section 52 of Ch. 154 of R.S. 1846, being CL 1857, § 5796; CL 1871, § 7603; How., § 9174; CL 1897, § 11588; CL 1915, § 15333; and CL 1929, § 16929.

750.548 Trespass upon cranberry marshes.

Sec. 548. Trespass upon cranberry marshes—Any person who shall enter the premises of any other person, and take and carry away cranberries or cranberry vines there growing, or who shall trample or otherwise injure or destroy the cranberry vines growing thereon, without the permission of the owner or occupant of said premises, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.548.

Former law: See section 1 of Act 38 of 1869, being CL 1871, § 2114; How., § 2223; CL 1897, § 11643; CL 1915, § 15409; and CL 1929, § 17012.

750.549 Trespass upon huckleberry and blackberry marshes.

Sec. 549. Trespass upon huckleberry and blackberry marshes—Any person who shall enter the enclosed premises of another person and take and carry away from any huckleberry marsh or lands growing blackberries, huckleberries or blackberries there growing, or who shall trample, break down or otherwise destroy the huckleberry or blackberry bushes growing thereon, without the permission of the owner or occupant of such premises: Provided, That such owner or occupant shall have previously posted a conspicuous notice in at least 3 different places upon the premises forbidding any trespass thereon, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.549.

Former law: See section 1 of Act 261 of 1909, being CL 1915, § 15412; and CL 1929, § 17015.

750.550 Trespass on vineyards, orchards or gardens.

Sec. 550. Trespass upon vineyards, orchards or gardens—Any person who shall enter a vineyard, orchard or garden, without the consent of the owner, and pick, take, carry away, destroy or injure any of the fruits, vegetables or crops therein, or in anywise injure or destroy any bush, tree, vine or plant, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.550.

Former law: See section 1 of Act 79 of 1895, being CL 1897, § 11645; CL 1915, § 15413; CL 1929, § 17010; and Act 61 of 1899.

750.551 Trespass; injuring and destroying medicinal plants.

Sec. 551. Trespass upon field, etc., and injuring or destroying ginseng, golden seal plants, etc.—Any person who shall without the permission of the owner, enter the field, yard, building, garden or other enclosure of another and wilfully break down, dig, destroy, take or carry away any ginseng or ginseng seed, golden seal plants, golden seal roots, golden seal seeds or any other medicinal plants, seeds or roots, there stored, growing, drying or being, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.551.

Former law: See section 1 of Act 74 of 1905, being CL 1915, § 15411; CL 1929, § 17014; and Act 360 of 1917.

750.552 Trespass upon lands or premises of another; penalty.

Sec. 552. Any person who shall wilfully enter, upon the lands or premises of another without lawful authority, after having been forbidden so to do by the owner or occupant, agent or servant of the owner or occupant, or any person being upon the land or premises of another, upon being notified to depart therefrom by the owner or occupant, the agent or servant of either, who without lawful authority neglects or refuses to depart therefrom, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for not more than 30 days or by a fine of not more than $50.00, or both, in the discretion of the court.

History: Add. 1951, Act 102, Imd. Eff. May 31, 1951.

750.552a Filth, garbage or refuse; unlawful to dump, deposit or place on property of another.

Sec. 552a. Any person who shall dump, deposit or place any filth, garbage or refuse on the grounds or premises of another, without the specific permission of the owner thereof, shall be guilty of a misdemeanor.

History: Add. 1954, Act 27, Imd. Eff. Mar. 31, 1954.

750.552b Trespass upon property of state correctional facility; violation as felony; penalty; "state correctional facility" defined.

Sec. 552b. (1) A person who willfully trespasses by entering or remaining upon the property of a state correctional facility without authority or permission to enter or remain is guilty of a felony punishable by

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

(2) As used in this section, "state correctional facility" means a facility or institution that houses a prisoner population under the jurisdiction of the department of corrections. State correctional facility does not include a community corrections center or a community residential home.

History: Add. 1996, Act 232, Eff. Jan. 1, 1997.

CHAPTER LXXXVI
UNFAIR DISCRIMINATION, RESTRAINT OF TRADE AND TRUSTS

750.553-750.555 Repealed. 1984, Act 274, Eff. Mar. 29, 1985.

Compiler's note: The repealed sections pertained to unfair discrimination.

750.556 Discrimination between sexes in payment of wages.

Sec. 556. Any employer of labor in this state, employing both males and females, who shall discriminate in any way in the payment of wages as between sexes who are similarly employed, shall be guilty of a misdemeanor. No female shall be assigned any task disproportionate to her strength, nor shall she be employed in any place detrimental to her morals, her health or her potential capacity for motherhood. Any difference in wage rates based upon a factor other than sex shall not violate this section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.556;—Am. 1962, Act 37, Eff. Mar. 28, 1963.

Former law: See sections 1 and 2 of Act 239 of 1919, being CL 1929, §§ 8497 and 8498.

750.557-750.560 Repealed. 1982, Act 238, Eff. Dec. 31, 1984;—1984, Act 274, Eff. Mar. 29, 1985.

Compiler's note: The repealed sections pertained to restraint of trade and trusts and to prohibiting the acquiring of stock to lessen competition.

CHAPTER LXXXVII
WEIGHTS AND MEASURES

750.561 False weights and measures.

Sec. 561. Any person who shall offer or expose for sale, sell, or use or retain in his or her possession a false weight or measure or weighing or measuring device or any weight or measure or weighing or measuring device in the buying or selling of any commodity or thing or for hire or reward; or who shall dispose of any condemned weight, measure or weighing or measuring device contrary to law or remove any tags placed thereon by the sealer of weights and measures; or any person who shall sell or offer or expose for sale less than the quantity he or she represents, or sell or offer or expose for sale any such commodity in any manner contrary to law, or any person who shall sell or offer for sale or have in his or her possession for the purpose of selling any device or instrument to be used to, or calculated to, falsify any weight or measure, is guilty of a misdemeanor. Upon a second or subsequent conviction, he or she shall be guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not less than $100.00 or more than $1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.561;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 7 of Act 168 of 1913, being CL 1915, § 6240; CL 1929, § 5539; and Act 24 of 1923.

750.562 Fruit or vegetable containers, copyrighted or registered.

Sec. 562. Fruit or vegetable containers bearing copyrighted or registered label, etc.—Any person using any fruit or vegetable container, or part thereof, upon which is borne any copyrighted or registered label, brand, stamp or trade-mark, or using a copyrighted or registered bag, tag or card without first obtaining permission to do so from the person, corporation, association, society or persons having legal control of the copyrighted or registered label, brand, stamp, trade-mark, tag, bag, or card, shall be guilty of a misdemeanor: Provided, That nothing in this section shall prohibit the use of the container or part thereof herein mentioned in the sale of a commodity other than that described on the label, brand, stamp, tag or card attached thereto or appearing thereon.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.562.

Former law: See sections 1 and 2 of Act 79 of 1925, being CL 1929, §§ 8964 and 8965.

750.563 Livestock or poultry; duty in weighing.

Sec. 563. Duty of persons weighing cattle, etc.—Any person who shall weigh for any person purchasing, or selling, or offering for sale, any live stock, neat cattle, sheep, swine, poultry, or other live animals, or any beef, pork, mutton, fowls, or other animals when dressed, or any hay, grain or produce, and shall fail, neglect

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or refuse to make a true and correct weight or weights thereof or give to the purchaser and seller, or person offering the same for sale, when requested, the true, full, correct and gross amount of any and all such weights, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.563.

Former law: See sections 1 and 2 of Act 189 of 1881, being How., §§ 1576 and 1577; CL 1897, §§ 4903 and 4904; CL 1915, §§ 6251 and 6252; and CL 1929, §§ 5565 and 5566.

750.564 Fruit or vegetable containers to hold quantity represented.

Sec. 564. Fruit or vegetable containers to hold quantity represented—Any person who shall offer for sale or sell in any township, city or village within this state, any fruits or vegetables contained in the drawers, cases, boxes or baskets, represented to hold 1 bushel or any fractional part thereof, which said drawers, cases, boxes or baskets shall not be of the dimensions to hold or shall not hold the quantity offered for sale or sold, whether by the bushel or 32 quarts or any fractional part thereof, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.564.

Former law: See sections 1 and 2 of Act 101 of 1877, being How., §§ 1574 and 1575; CL 1897, §§ 4907 and 4908; CL 1915, §§ 6255 and 6256; and CL 1929, §§ 5590 and 5591.

750.565 Fruit baskets to be marked as to number of pounds.

Sec. 565. Fruit baskets to be marked as to number of pounds—Any manufacturer or shipper of or dealer in peach baskets or other fruit packages designed for the shipment of peaches, grapes and plums, who shall sell or offer to sell such peach baskets or other fruit packages without marking or causing to be marked in a plain manner on the outside, otherwise than the bottom of such baskets or packages, the capacity of each basket or package in pounds at the rate of 1 pound for each 43.008 cubic inches of space contained in such basket or package, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.565.

Former law: See sections 1 and 2 of Act 224 of 1895, being CL 1897, §§ 4909 and 4910; CL 1915, §§ 6257 and 6258; and CL 1929, §§ 5587 and 5588.

750.566 Binder twine; marking.

Sec. 566. Marking of binder twine—Any person who shall sell, expose or offer for sale within this state, binder twine, except the same bear upon each ball a stamp, tag or label truly stating the name of the manufacturer, importer or jobber of such twine, the kind or kinds of material it contains, and the number of feet to the pound in such ball, shall be guilty of a misdemeanor: Provided, That a deficiency not exceeding 5 per cent in the length or tensile strength stated on the stamp, tag or label shall not be a violation hereof.

The selling or exposing for sale of any ball of twine which does not conform to the requirements of this section shall constitute a separate and distinct offense.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.566.

Former law: See sections 1 to 3 of Act 55 of 1909, being CL 1915, §§ 6267 to 6269; and CL 1929, §§ 5616 to 5618.

CHAPTER LXXXVIII
REPEALS AND SAVING SECTION

750.568 Saving section.

Sec. 568. Saving section—All proceedings pending and all rights and liabilities existing, acquired or incurred, at the time this act takes effect, are hereby saved, and such proceedings may be consummated under and according to the law in force at the time such proceedings are or were commenced. It is the legislative intent that this act shall not be construed to alter, affect or abate any pending prosecution, or prevent prosecution hereafter instituted under such repealed sections, chapters or acts for offenses committed prior to the effective date of this act; and all prosecutions pending at the effective date of this act, and all prosecutions instituted after the effective date of this act for offenses committed prior to the effective date of this act may be continued or instituted under and in accordance with the provisions of the law in force at the time of the commission of such offense.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.568.

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