

Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536Telephone: (517) 373-5383
Fax: (517) 373-1986Senate Bills 412 and 413 (as introduced 8-20-19)
Sponsor: Senator Peter J. Lucido
Committee: Judiciary and Public Safety

Date Completed: 8-27-19

CONTENT**Senate Bill 412** would amend the Michigan Penal Code to prescribe enhanced penalties for embezzlement from a vulnerable adult.**Senate Bill 413** would amend the Code of Criminal Procedure to include the enhanced felony penalties proposed by Senate Bill 412 in the sentencing guidelines.

Each bill would take effect 90 days after its enactment. Senate Bill 413 is tie-barred to Senate Bill 412.

Senate Bill 412

Section 174a of the Penal Code prescribes penalties for a person who, through fraud, deceit, misrepresentation, coercion, or unjust enrichment obtains or uses or attempts to obtain or use a vulnerable adult's money or property to benefit himself or herself knowing or having reason to know the vulnerable adult is a vulnerable adult.

The Code includes a graduated sentencing structure that imposes more serious penalties for greater values of money or property or for repeat convictions, as shown in [Table 1](#).**Table 1**

Value of Money or Property	Offense	Maximum Sentence	
		Fine	Imprisonment
Under \$200	Misdemeanor	\$500	93 days
\$200 or more but <\$1,000; or <\$200 + 1 or more prior convictions	Misdemeanor	\$2,000	1 year
\$1,000 or more but <\$20,000; or \$200 but <\$1,000 + 1 or more prior convictions*	Felony	\$10,000	5 years
\$20,000 or more but < \$50,000; or \$1,000 or more but <\$20,000 + 2 or more prior convictions*	Felony	\$15,000	10 years
\$50,000 or more but < \$100,000; or \$20,000 or more but < \$50,000 + 2 or more prior convictions*	Felony	\$15,000	15 years
\$100,000 or more; or \$50,000 or more but <\$100,000 + 2 or more prior convictions*	Felony	\$50,000	20 years
* For purposes of this sentence, a prior conviction does not include a conviction for a violation or attempted violation involving money or property valued at less than \$200.			

In all cases, the maximum fine is the amount specified or three times the value of the money or property used or obtained, or attempted to be used or obtained, whichever is greater.

The bill would increase the penalties for all offenses, as shown in [Table 2](#).

Table 2

Value of Money or Property	Offense	Maximum Sentence	
		Fine	Imprisonment
Under \$200	Misdemeanor	\$1,000	1 year
\$200 or more but <\$1,000; or <\$200 + 1 or more prior convictions	Misdemeanor	\$4,000	1 year
\$1,000 or more but <\$20,000; or \$200 but <\$1,000 + 1 or more prior convictions*	Felony	\$20,000	10 years
\$20,000 or more but < \$50,000; or \$1,000 or more but <\$20,000 + 2 or more prior convictions*	Felony	\$30,000	15 years
\$50,000 or more but < \$100,000; or \$20,000 or more but < \$50,000 + 2 or more prior convictions*	Felony	\$30,000	20 years
\$100,000 or more; or \$50,000 or more but <\$100,000 + 2 or more prior convictions*	Felony	\$100,000	25 years

* For purposes of this sentence, a prior conviction does not include a conviction for a violation or attempted violation involving money or property valued at less than \$200.

Senate Bill 413

The Code of Criminal Procedure includes the sentencing guidelines designations for the penalties described in Section 174a of the Penal Code, as shown in [Table 3](#).

Table 3

Felony	Class & Category	Statutory Max. Sentence
Embezzlement of \$1,000 to \$20,000 (or \$200 to \$1,000 with prior convictions) from a vulnerable adult	E - Property	5 years
Embezzlement of \$20,000 to \$50,000 (or \$1,000 to \$20,000 with prior convictions) from a vulnerable adult	D - Property	10 years
Embezzlement of \$50,000 to \$100,000 (or \$20,000 to \$50,000 with prior convictions) from a vulnerable adult	C - Property	15 years
Embezzlement of \$100,000 or more (or \$50,000 to \$100,000 with prior convictions) from a vulnerable adult	B - Property	20 years

The bill would revise the sentencing guidelines descriptions for the current felonies for embezzlement of a vulnerable adult, as shown in [Table 4](#).

Table 4

Felony	Class & Category	Statutory Max. Sentence
Embezzlement of \$1,000 to \$20,000 (or \$200 to \$1,000 with prior convictions) from a vulnerable adult	C - Property	10 years
Embezzlement of \$20,000 to \$50,000 (or \$1,000 to \$20,000 with prior convictions) from a vulnerable adult	C - Property	15 years
Embezzlement of \$50,000 to \$100,000 (or \$20,000 to \$50,000 with prior convictions) from a vulnerable adult	B - Property	20 years
Embezzlement of \$100,000 or more (or \$50,000 to \$100,000 with prior convictions) from a vulnerable adult	B - Property	25 years

FISCAL IMPACT

Senate Bill 412

The bill would have a negative fiscal impact on the State and local government. New misdemeanor and felony arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. However, it is unknown how many people would be prosecuted under the bill's provisions. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison intakes (for felony convictions), in the short term, the marginal cost to State government is approximately \$5,315 per prisoner per year. Any additional revenue from imposed fines would go to local libraries.

Senate Bill 413

The bill would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

Fiscal Analyst: Joe Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.