

SENATE BILL NO. 378

February 24, 1999, Introduced by Senator GOUGEON, HAMERSTROM,
ROGERS and MC COTTER and referred to the Committee on
Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 174a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 174A. (1) A PERSON IN A RELATIONSHIP OF TRUST WITH A
2 VULNERABLE ADULT SHALL NOT KNOWINGLY, BY DECEPTION OR INTIMIDA-
3 TION, OBTAIN OR USE OR ATTEMPT TO OBTAIN OR USE THE VULNERABLE
4 ADULT'S MONEY OR PROPERTY FOR THE BENEFIT OF ANY PERSON OTHER
5 THAN THE VULNERABLE ADULT AND WITH THE INTENT TO TEMPORARILY OR
6 PERMANENTLY DEPRIVE THE VULNERABLE ADULT OF THE USE, BENEFIT, OR
7 POSSESSION OF THAT MONEY OR PROPERTY.

8 (2) A PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A
9 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A
10 FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

1 (3) THIS SECTION DOES NOT PROHIBIT A PERSON FROM BEING
2 CHARGED WITH, CONVICTED OF, OR PUNISHED FOR ANY OTHER VIOLATION
3 OF LAW THE PERSON COMMITS WHILE VIOLATING THIS SECTION.

4 (4) AS USED IN THIS SECTION:

5 (A) "DECEPTION" MEANS A MISREPRESENTATION OR CONCEALMENT OF
6 A MATERIAL FACT.

7 (B) "INTIMIDATION" MEANS THE COMMUNICATION BY WORD OR ACT
8 THAT THE VULNERABLE ADULT WILL BE DEPRIVED OF FOOD OR NUTRITION,
9 CLOTHING, SHELTER, SUPERVISION, ASSISTANCE, MEDICATION OR MEDICAL
10 SERVICES, FINANCIAL SUPPORT, OR CARE OR OTHER SUPPORT OR WILL
11 SUFFER PHYSICAL VIOLENCE.

12 (C) "PERSON IN A RELATIONSHIP OF TRUST" MEANS A PERSON TO
13 WHOM ALL OF THE FOLLOWING APPLY:

14 (i) THE PERSON IS A CAREGIVER, RELATIVE BY BLOOD, MARRIAGE,
15 OR ADOPTION, HOUSEHOLD MEMBER, OR OTHER PERSON WHO IS ENTRUSTED
16 WITH OR HAS ASSUMED THE USE OR MANAGEMENT OF THE VULNERABLE
17 ADULT'S MONEY OR PROPERTY.

18 (ii) THE PERSON HAS A RELATIONSHIP WITH THE VULNERABLE ADULT
19 BASED UPON THE VULNERABLE ADULT'S TRUST AND CONFIDENCE, REGARD-
20 LESS OF THE REASONABLENESS OF THE VULNERABLE ADULT'S EXPECTATIONS
21 OR THE EXISTENCE OF A FORMAL AGREEMENT OR COURT ORDER, SUCH THAT
22 THE PERSON IS IN EQUITY AND GOOD CONSCIENCE BOUND TO ACT IN GOOD
23 FAITH AND WITH DUE REGARD FOR THE VULNERABLE ADULT'S INTERESTS.

24 (D) "VULNERABLE ADULT" MEANS ANY OF THE FOLLOWING:

25 (i) AN INDIVIDUAL AGE 18 OR OVER WHO, BECAUSE OF AGE, DEVEL-
26 OPMENTAL DISABILITY, MENTAL ILLNESS, OR PHYSICAL HANDICAP
27 REQUIRES SUPERVISION OR PERSONAL CARE, LACKS THE PERSONAL AND

1 SOCIAL SKILLS REQUIRED TO LIVE INDEPENDENTLY, OR HAS 1 OR MORE
2 PHYSICAL OR MENTAL LIMITATIONS THAT SUBSTANTIALLY RESTRICT THE
3 ABILITY TO PERFORM NORMAL ACTIVITIES OF DAILY LIVING.

4 (ii) A PERSON 60 YEARS OF AGE OR OLDER WHO IS SUFFERING FROM
5 INFIRMITIES OF AGING AS MANIFESTED BY PHYSICAL, MENTAL, OR EMO-
6 TIONAL DYSFUNCTIONING TO THE EXTENT THAT THE PERSON'S ABILITY TO
7 PROVIDE ADEQUATELY FOR HIS OR HER OWN CARE OR PROTECTION OR LIVE
8 INDEPENDENTLY IS IMPAIRED.