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House Bill 4260 (Substitute H-1 as reported by the Committee of the Whole)

Sponsor: Representative William Van Regenmorter

House Committee: Criminal Justice

Senate Committee: Judiciary

CONTENT

The bill would amend the Michigan Penal Code to prohibit any person, rather than a "person in a relationship of trust", from embezzling the money or property of a vulnerable adult; add the element of knowledge to the offense; and redefine "vulnerable adult". The bill would take effect on September 1, 2004.

The Penal Code prescribes penalties for a person in a relationship of trust with a vulnerable adult who, through fraud, deceit, misrepresentation, or unjust enrichment obtains or uses or attempts to obtain or use the vulnerable adult's money or property to benefit that person directly or indirectly. The bill would delete from that provision "in a relationship of trust with a vulnerable adult". Under the bill, the prohibition would apply only if the offender knew or had reason to know that the person was a vulnerable adult. The bill also would prohibit obtaining or using a vulnerable adult's money or property through coercion.

Currently, "vulnerable adult" means an individual, 18 years old or over, 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. Under the bill, that term would mean "vulnerable adult" as defined in Section 145m of the Code, regardless of whether a court had determined the person to be incapacitated. Under that section, "vulnerable adult" means an individual 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; a person placed in adult foster care; or a vulnerable person at least 18 years old who is suspected of being or believed to be abused, neglected, or exploited.

MCL 750.174a

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. According to the Department of Corrections Statistical Report, in 2001, the most recent year for which felony disposition data are available, there were no offenders convicted of this offense. By expanding the number of potential offenders to include any person rather than just a person in a relationship of trust with a vulnerable adult, the bill could increase the number of people convicted of the offense, thereby increasing State and local corrections costs. The bill also could increase corrections costs by expanding the offense to include coercion. Conversely, the bill could decrease the number of convicted offenders and corrections costs by limiting the offense such that an offender would have to know or have reason to know the victim was a vulnerable adult. Local units incur the costs of misdemeanor probation and incarceration in a local facility, both of which vary by county. The State incurs the cost of felony probation at an average annual cost of \$1,800, as well as the cost of incarceration in a State facility at an average annual cost of \$28,000.

Date Completed: 7-2-04

Fiscal Analyst: Bethany Wicksall

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Bill Analysis @ www.senate.michigan.gov/sfa

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