

## Chapter 752

### CRIMES AND OFFENSES

#### INTERSTATE LAW ENFORCEMENT INTELLIGENCE ORGANIZATIONS

##### Act 201 of 1980

AN ACT to regulate the maintenance and supplying of information by a law enforcement agency to an interstate law enforcement intelligence organization; to regulate membership by a law enforcement agency in interstate law enforcement intelligence organizations; and to prescribe penalties.

**History:** 1980, Act 201, Imd. Eff. July 18, 1980

*The People of the State of Michigan enact:*

##### **752.1 Definitions.**

###### Sec. 1.

As used in this act:

(a) "File" means all information about an individual recorded and retained by a law enforcement intelligence organization regardless of how the information is stored.

(b) "Freedom of information act" means an act which provides that members of the public have a right to inspect and copy certain records of governmental agencies, which for this state is Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(c) "Individual" means a natural person or a parent or guardian of a natural person who is less than 18 years of age, unless the person who is less than 18 years of age indicates otherwise.

(d) "Interstate law enforcement intelligence organization" means any intelligence gathering organization whose purpose is to promote the gathering, recording, and interstate exchange of confidential information not available through regular police channels and which provides a central clearinghouse for information dissemination to its membership. Interstate law enforcement intelligence organization includes, but is not limited to, the intelligence gathering organization registered as a charitable trust in the state of California with its principal offices located in Sacramento, California.

(e) "Law enforcement agency" means a state or local police department, a sheriff's department, a county prosecutor's office, the department of attorney general, or any other department or agency which enforces the laws of this state or the ordinances of a county, township, city, or village.

**History:** 1980, Act 201, Imd. Eff. July 18, 1980

##### **752.2 Supplying information to or maintaining files supplied by interstate law enforcement intelligence organization; conditions.**

###### Sec. 2.

A law enforcement agency may not supply information to or maintain files supplied by an interstate law enforcement intelligence organization unless 1 of the following conditions is met:

(a) The organization is the El Paso intelligence center.

(b) The interstate law enforcement intelligence organization is established by an act of congress.

(c) The interstate law enforcement intelligence organization is established within a federal investigative agency and membership is with the concurrence of the governor of this state.

(d) The interstate law enforcement intelligence organization is created by an act of the legislature in the state where the organization is located and by the legislature of this state.

**History:** 1980, Act 201, Imd. Eff. July 18, 1980

**752.3 Maintaining membership, supplying information to, or maintaining files supplied by interstate law enforcement intelligence organization; conditions; exceptions; effective date of section.**

**Sec. 3.**

(1) Except as provided in section 2, a law enforcement agency shall not maintain membership, supply information to, or maintain files supplied by an interstate law enforcement intelligence organization unless all of the following conditions are met by the interstate law enforcement intelligence organization:

(a) The organization is governed by a citizen oversight body which has the authority to periodically review the files maintained by the organization.

(b) The files maintained by an organization are relevant to a criminal investigation or pertinent to and within the scope of an authorized law enforcement activity.

(c) The organization does not maintain a record describing how an individual exercises rights guaranteed by the first amendment of the constitution of the United States.

(d) The organization has established guidelines which provide for the review of files at regular intervals to insure the accuracy and legality of the file information.

(e) The organization has established guidelines which provide for the destruction of outdated or inaccurate information.

(f) The organization permits its files located in a state with a freedom of information act to be accessible to the public in accordance with that act.

(2) This section shall take effect July 1, 1983.

**History:** 1980, Act 201, Eff. July 1, 1983

**752.4 Notice of membership.**

**Sec. 4.**

A law enforcement agency which is a member of an interstate law enforcement intelligence organization shall notify the legislature and the governor of its membership not later than February 1 of each year.

**History:** 1980, Act 201, Imd. Eff. July 18, 1980

**Compiler's Notes:** Former MCL 752.4 to 752.6, deriving from Act 254 of 1881 and pertaining to adulteration of food, drink, or medicine, were repealed by Act 39 of 1968.

**752.5 Exchange of information through regular police channels.**

**Sec. 5.**

This act shall not be construed to prohibit the exchange of information through regular police channels between a law enforcement agency in this state and a law enforcement agency in another state, the District of Columbia, or the federal government.

**History:** 1980, Act 201, Imd. Eff. July 18, 1980

**Compiler's Notes:** Former MCL 752.4 to 752.6, deriving from Act 254 of 1881 and pertaining to adulteration of food, drink, or medicine, were repealed by Act 39 of 1968.

## **752.6 Violation as misdemeanor.**

Sec. 6.

A person who knowingly violates this act is guilty of a misdemeanor.

**History:** 1980, Act 201, Imd. Eff. July 18, 1980

**Compiler's Notes:** Former MCL 752.4 to 752.6, deriving from Act 254 of 1881 and pertaining to adulteration of food, drink, or medicine, were repealed by Act 39 of 1968.

## **LAW ENFORCEMENT**

### **Act 158 of 1966**

AN ACT to require public officials to enforce the legal rights of citizens and to provide a penalty for failure to do so.

**History:** 1966, Act 158, Eff. Mar. 10, 1967

*The People of the State of Michigan enact:*

## **752.11 Upholding or enforcing the law; duty of public officials.**

Sec. 1.

Any public official, appointed or elected, who is responsible for enforcing or upholding any law of this state and who wilfully and knowingly fails to uphold or enforce the law with the result that any person's legal rights are denied is guilty of a misdemeanor.

**History:** 1966, Act 158, Eff. Mar. 10, 1967

## **752.12 Penalty.**

Sec. 2.

Any person convicted of violating this act shall be punished by a fine of not more than \$1,000.00 or imprisonment for not more than 1 year, or both.

**History:** 1966, Act 158, Eff. Mar. 10, 1967

## **CRUELTY TO ANIMALS**

### **Act 70 of 1877**

752.21-752.30 Repealed. 1994, Act 126, Eff. Mar. 30, 1995.

## USE OF TRAVEL AIDS BY BLIND PERSONS

### Act 10 of 1937

AN ACT to define the use of travel aids by blind persons; to provide protection against accidents to such persons; to require instruction and examination in certain circumstances; and to provide penalties for violation hereof.

**History:** 1937, Act 10, Imd. Eff. Apr. 16, 1937 ;-- Am. 1986, Act 62, Eff. Jan. 1, 1987

*The People of the State of Michigan enact:*

#### **752.51 Repealed. 1986, Act 62, Eff. Jan. 1, 1987.**

**Compiler's Notes:** The repealed section pertained to color of canes used by blind persons.

#### **752.51a Definitions.**

Sec. 1a.

As used in this act:

(a) "Blind" means a person who has a visual acuity of 20/200 or less in the better eye with correction, or has limitation of his or her field of vision such that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.

(b) "Cane" means an aid used by a blind pedestrian for travel and identification purposes that is white in color with or without a red tip.

(c) "Crosswalk" means that term as defined in section 10 of the Michigan vehicle code, 1949 PA 300, MCL 257.10.

(d) "Dog guide" means a dog, in harness, that has been formally trained and that is used by a blind person as a travel aid.

(e) "Walker" means an aid used by a blind pedestrian for travel and identification purposes that is white in color or has white legs with or without a red tip.

**History:** Add. 1986, Act 62, Eff. Jan. 1, 1987 ;-- Am. 2002, Act 401, Imd. Eff. June 3, 2002

#### **752.52 Blind pedestrian carrying cane or using dog guide or walker; duty of driver; liability; failure to carry cane or use dog guide or walker; investigation of alleged violation; review of investigative report; informing blind pedestrian of decision.**

Sec. 2.

(1) A driver of a vehicle shall not approach a crosswalk or any other pedestrian crossing without taking all necessary precautions to avoid accident or injury to a blind pedestrian carrying a cane or using a dog guide or walker.

(2) A driver who approaches a crosswalk or any other pedestrian crossing without taking all necessary precautions to avoid accident or injury to a blind pedestrian carrying a cane or using a dog guide or walker is liable in damages for any injuries caused the blind pedestrian. A blind pedestrian who does not carry a cane or use a dog

guide or walker has all of the rights and privileges conferred upon any other pedestrian by the laws of this state. The failure of a blind pedestrian to carry a cane or use a dog guide or walker shall not be treated as evidence of negligence in a civil action for injury to the blind pedestrian or for the blind pedestrian's wrongful death.

(3) If a person alleges to a peace officer a violation of subsection (1), the peace officer shall investigate the alleged violation. The prosecuting attorney shall review the peace officer's investigative report to determine whether a violation of subsection (1) has occurred and whether to issue charges. Upon the request of the blind pedestrian and after reviewing the investigative report, a prosecuting attorney shall inform the blind pedestrian of his or her decision and the reason or reasons supporting that decision.

**History:** 1937, Act 10, Imd. Eff. Apr. 16, 1937 ;-- CL 1948, 752.52 ;-- Am. 1952, Act 249, Eff. Sept. 18, 1952 ;-- Am. 1986, Act 62, Eff. Jan. 1, 1987 ;-- Am. 2002, Act 401, Imd. Eff. June 3, 2002

### **752.53 Violation as misdemeanor; penalty.**

Sec. 3.

A person who violates section 2(1) is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or by a fine of not more than \$100.00, or both.

**History:** 1937, Act 10, Imd. Eff. Apr. 16, 1937 ;-- CL 1948, 752.53 ;-- Am. 1986, Act 62, Eff. Jan. 1, 1987

### **752.54 Instruction or examination on requirements of act.**

Sec. 4.

If a person elects or is required to take instruction for the purpose of driving motor vehicles or for the preparation of an examination given by the department of state for a license to operate a motor vehicle, or is required to take an examination given by the department of state, the person shall be instructed or examined on the requirements of this act.

**History:** Add. 1986, Act 62, Eff. Jan. 1, 1987

## **COLLARS, HARNESES, AND LEASHES ON DOGS IN PUBLIC PLACES**

### **Act 82 of 1981**

AN ACT to prohibit a person from representing that he or she is in possession of a service animal in public places, unless that person is a person with a disability; and to prescribe penalties.

**History:** 1981, Act 82, Imd. Eff. July 1, 1981 ;-- Am. 1984, Act 111, Imd. Eff. May 24, 1984 ;-- Am. 2015, Act 147, Eff. Jan. 18, 2016

*The People of the State of Michigan enact:*

### **752.61 Definitions.**

Sec. 1.

As used in this act:

(a) "Person with a disability" means a person who has a disability as defined in section 12102 of the Americans with disabilities act of 1990, 42 USC 12102 and 28 CFR 36.104.

(b) As used in subdivision (a), "person with a disability" includes a veteran who has been diagnosed with 1 or more of the following:

(i) Post-traumatic stress disorder.

(ii) Traumatic brain injury.

(iii) Other service-related disabilities.

(c) "Service animal" means all of the following:

(i) That term as defined in 28 CFR 36.104.

(ii) A miniature horse that has been individually trained to do work or perform tasks as described in 28 CFR 36.104 for the benefit of a person with a disability.

(d) "Veteran" means any of the following:

(i) A person who performed military service in the armed forces for a period of more than 90 days and separated from the armed forces in a manner other than a dishonorable discharge.

(ii) A person discharged or released from military service because of a service-related disability.

(iii) A member of a reserve branch of the armed forces at the time he or she was ordered to military service during a period of war, or in a campaign or expedition for which a campaign badge is authorized, and was released from military service in a manner other than a dishonorable discharge.

**History:** 1981, Act 82, Imd. Eff. July 1, 1981 ;-- Am. 1984, Act 111, Imd. Eff. May 24, 1984 ;-- Am. 2015, Act 147, Eff. Jan. 18, 2016

#### **752.62 Possession of service animal; false representation.**

##### **Sec. 2.**

A person shall not falsely represent that he or she is in possession of a service animal, or a service animal in training, in any public place.

**History:** 1981, Act 82, Imd. Eff. July 1, 1981 ;-- Am. 1984, Act 111, Imd. Eff. May 24, 1984 ;-- Am. 2015, Act 147, Eff. Jan. 18, 2016

#### **752.63 Violation as misdemeanor; penalty.**

##### **Sec. 3.**

A person who knowingly violates this act is guilty of a misdemeanor punishable by 1 or more of the following:

(a) Imprisonment for not more than 90 days.

(b) A fine of not more than \$500.00.

(c) Community service for not more than 30 days.

**History:** 1981, Act 82, Imd. Eff. July 1, 1981 ;-- Am. 2015, Act 147, Eff. Jan. 18, 2016

#### **752.64 Telephone complaint hotline; use; referral to law enforcement agency.**

##### **Sec. 4.**

The department of civil rights shall use its existing telephone complaint hotline to receive reports of a person falsely representing that he or she is in possession of a service animal or a service animal in training. The department may refer an alleged violation of this act to the appropriate law enforcement agency for investigation.

**History:** Add. 2015, Act 147, Eff. Jan. 18, 2016

## **Revised Statutes of 1846**

### **R.S. of 1846**

#### **Chapter 158-Continued Chapter 158. Of Offences Against Chastity, Morality and Decency**

#### **752.73 Unauthorized construction of way through cemetery.**

Sec. 23.

If any person shall open or make any highway, or shall construct any railroad, turnpike or canal, or any other thing in the nature of a public easement, over, through, in or upon, such part of any enclosure, being the property of a township, city, religious society, or of any other body corporate, or of private proprietors, as may be used or appropriated for the burial of the dead, unless an authority for that purpose shall be specially granted by law, or unless the consent of such township, city, religious society, body corporate or proprietors respectively, shall be first obtained, he shall be punished by fine not exceeding 2,000 dollars, or imprisonment in the county jail not more than 1 year.

**History:** R.S. 1846, Ch. 158 ;-- CL 1857, 5878 ;-- CL 1871, 7713 ;-- How. 9299 ;-- CL 1897, 11712 ;-- CL 1915, 15486 ;-- CL 1929, 16838 ;-- CL 1948, 752.73

## **SALE OF BABY CHICKS, RABBITS, DUCKLINGS, OR OTHER FOWL OR GAME**

### **Act 163 of 1945**

AN ACT prohibiting the sale or offer for sale of dyed or artificially colored baby chicks, rabbits, ducklings, or other fowl or game; and providing a penalty for violation thereof.

**History:** 1945, Act 163, Imd. Eff. May 16, 1945

*The People of the State of Michigan enact:*

#### **752.91 Sale of artificially colored baby chicks, rabbits or ducklings; unlawful.**

Sec. 1.

It shall be unlawful for any person, firm or corporation to sell, or offer for sale, any baby chicks, rabbits, ducklings, or other fowl or game which have been dyed or otherwise artificially colored.

**History:** 1945, Act 163, Imd. Eff. May 16, 1945 ;-- CL 1948, 752.91

**752.92 Violation a misdemeanor.**

Sec. 2.

Any person, firm or corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by the laws of this state.

**History:** 1945, Act 163, Imd. Eff. May 16, 1945 ;-- CL 1948, 752.92

**SAFETY DEVICES ON CORN HUSKERS**

**Act 124 of 1907**

AN ACT requiring corn huskers to be protected by an automatic feeder or other safety device, and making the sale or use thereof, unless so protected, a misdemeanor.

**History:** 1907, Act 124, Eff. Sept. 28, 1907

*The People of the State of Michigan enact:*

**752.101 Corn husker with unprotected feeder; unlawful sale.**

Sec. 1.

Hereafter it shall be unlawful for any person, partnership, association or corporation, or for any officer or agent thereof, to sell or offer for sale, or to use within the state of Michigan, the machine commonly known as a corn husker, unless the same is safeguarded by an automatic feeder or other safety device, that shall compel the person, or persons, feeding said machine, to stand at a reasonably safe distance from the snapping rollers, and designed effectually to protect the person or persons operating the same from bodily injury while engaged in such operation.

**History:** 1907, Act 124, Eff. Sept. 28, 1907 ;-- CL 1915, 15268 ;-- CL 1929, 16807 ;-- CL 1948, 752.101

**752.102 Penalty.**

Sec. 2.

Any person, partnership, association or corporation, or officer or agent thereof, who shall be found guilty of a violation of the provisions of section 1 of this act, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not exceeding 100 dollars, or imprisonment not exceeding 90 days, or by both such fine and imprisonment, in the discretion of the court.

**History:** 1907, Act 124, Eff. Sept. 28, 1907 ;-- CL 1915, 15269 ;-- CL 1929, 16808 ;-- CL 1948, 752.102

**REBUILT ELECTRIC STORAGE BATTERIES**

**Act 217 of 1933**

752.131-752.132 Repealed. 2015, Act 216, Eff. Mar. 14, 2016.

## **ENDURANCE CONTESTS**

### **Act 140 of 1935**

752.161-752.162 Repealed. 2015, Act 212, Eff. Mar. 14, 2016.

## **FELONIOUS DRIVING**

### **Act 214 of 1931**

752.191,752.192 Repealed. 2001, Act 134, Eff. Feb. 1, 2002.

## **FISHING HOUSES OR SHELTERS PLACED ON ICE**

### **Act 134 of 1943**

752.211-752.213 Repealed. 1993, Act 274, Eff. Apr. 1, 1994.

## **FISHING SHANTIES**

### **Act 274 of 1993**

752.221-752.230 Repealed. 1995, Act 57, Imd. Eff. May 24, 1995.

## **LIQUID FUELS, LUBRICATING OILS, OR SIMILAR PRODUCTS**

### **Act 231 of 1931**

AN ACT to prohibit fraud and deceit in the sale of liquid fuels, lubricating oils or similar products; to prohibit the sale of such products under false or fictitious names; to prohibit substitution, mixing or adulteration of such products so as to deceive the purchaser thereof as to their nature, quality and identity; to prohibit the use of containers, tanks, pumps or other distributing equipment for the storage or sale of such products, other than those indicated by the name, device, sign or distinguishing marks upon such containers, tanks, pumps or distributing equipment; and to provide a penalty for violations of this act.

**History:** 1931, Act 231, Imd. Eff. May 29, 1931

**752.251 Liquid fuels, lubricating oils; deceit in sale unlawful.**

Sec. 1.

It shall be unlawful for any person, firm, co-partnership, association or corporation to store, sell, expose for sale or offer for sale any liquid fuels, lubricating oils or similar products, in any manner whatsoever, so as to deceive or tend to deceive the purchaser as to the nature, quality and/or identity of the product so sold or offered for sale.

**History:** 1931, Act 231, Imd. Eff. May 29, 1931 ;-- CL 1948, 752.251

**752.252 Liquid fuels, lubricating oils; distributing equipment to bear distinguishing mark.**

Sec. 2.

It shall be unlawful for any person, firm, co-partnership, association or corporation to store, keep, expose for sale, offer for sale, or sell from any tank or container or from any pump or other distributing device any other liquid fuels, lubricating oils or similar products than those indicated by the name, trade name, trade name symbol, sign or other distinguishing mark or device of the manufacturer or distributor appearing upon the tank, container, pump or other distributing equipment from which the same are sold, offered for sale or distributed.

**History:** 1931, Act 231, Imd. Eff. May 29, 1931 ;-- CL 1948, 752.252

**752.253 Liquid fuels, lubricating oils; disguise of distributing equipment unlawful.**

Sec. 3.

It shall be unlawful for any person, firm, co-partnership, association or corporation to disguise or camouflage his or their own equipment by imitating the design, symbol or trade name of the equipment under which recognized brands of liquid fuels, lubricating oils or similar products are generally marketed.

**History:** 1931, Act 231, Imd. Eff. May 29, 1931 ;-- CL 1948, 752.253

**752.254 Liquid fuels, lubricating oils; substitution, mixture or adulteration unlawful.**

Sec. 4.

It shall be unlawful for any person, firm, co-partnership, association or corporation to expose for sale, offer for sale or sell under any trade-mark or trade name in general use any liquid fuels, lubricating oils or similar products except those manufactured or distributed by the manufacturer or distributor marketing liquid fuels, lubricating oils or similar products, under such trade-mark or trade name, or to substitute, mix or adulterate the liquid fuels, lubricating oils or similar products sold, offered for sale or distributed under such trade-mark or trade name.

**History:** 1931, Act 231, Imd. Eff. May 29, 1931 ;-- CL 1948, 752.254

#### **752.255 Liquid fuels, lubricating oils; unlawful deposit in distributing equipment.**

Sec. 5.

It shall be unlawful for any person, firm, co-partnership, association or corporation to aid or assist any other person, firm, co-partnership, association or corporation in the violation of the provisions of this act by depositing or delivering into any tank, receptacle or other container any other liquid fuels, lubricating oils or similar products than those intended to be stored therein and distributed therefrom as indicated by the name of the manufacturer or distributor or the trade-mark or trade name of the product displayed on the container itself or on the pump or other distributing device used in connection therewith.

**History:** 1931, Act 231, Imd. Eff. May 29, 1931 ;-- CL 1948, 752.255

#### **752.256 Liquid fuels, lubricating oils; labeling of distributing equipment.**

Sec. 6.

There shall be firmly attached to or painted on containers, tanks, pumps or other distributing equipment at or near the point from which liquid fuels, lubricating oils or similar products are drawn or poured out for sale or delivery, a sign or label consisting of the word or words in letters not less than 1 inch in height comprising the brand or trade name of such liquid fuels, lubricating oils or similar products; and if any of such liquid fuels, lubricating oils or similar products shall have no brand or trade name the sign or label shall consist of the words, in letters not less than 3 inches high, "Gasoline, No Brand", or "Lubricating Oil, No Brand", or words of similar effect in the case of other products.

**History:** 1931, Act 231, Imd. Eff. May 29, 1931 ;-- CL 1948, 752.256

#### **752.257 Penalty.**

Sec. 7.

Any person, firm, co-partnership, association or corporation, or any officer, agent or employe thereof, who shall violate any provision of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than 500 dollars or by imprisonment in the county jail for not more than 1 year or by both such fine and imprisonment in the discretion of the court.

**History:** 1931, Act 231, Imd. Eff. May 29, 1931 ;-- CL 1948, 752.257

### **CHEMICAL AGENTS**

#### **Act 119 of 1967**

AN ACT to regulate the sale, distribution, and use of certain chemical agents and devices containing certain chemical agents; to prescribe powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies.

**History:** 1967, Act 119, Eff. Nov. 2, 1967 ;-- Am. 1969, Act 206, Eff. Mar. 20, 1970 ;-- Am. 2000, Act 299, Eff. Jan. 1, 2001 ;-- Am. 2018, Act 137, Eff. Aug. 8, 2018

**752.271 Chemical agent, definition.**

Sec. 1.

As used in this act, "chemical agent" means any substance containing a toxic chemical or organic solvent or both, having the property of releasing toxic vapors. The term includes, but is not limited to, glue, acetone, toluene, carbon tetrachloride, hydrocarbons and hydrocarbon derivatives.

**History:** 1967, Act 119, Eff. Nov. 2, 1967 ;-- Am. 1969, Act 206, Eff. Mar. 20, 1970

**752.272 Inhalation or consumption of chemical agent prohibited; anesthesia inhalation excepted.**

Sec. 2.

No person shall, for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction or dulling of the senses or nervous system, intentionally smell or inhale the fumes of any chemical agent or intentionally drink, eat or otherwise introduce any chemical agent into his respiratory or circulatory system. This shall not prohibit the inhalation of any anesthesia for medical or dental purposes.

**History:** 1967, Act 119, Eff. Nov. 2, 1967 ;-- Am. 1969, Act 206, Eff. Mar. 20, 1970

**752.272a Sale or distribution of device containing nitrous oxide to person under age of 18; civil fine; sale or distribution of device containing or dispensing nitrous oxide; prohibition; exceptions; violation; penalty; definitions.**

Sec. 2a.

(1) Except for a person described in subsection (3)(c) or (d) acting in the course of his or her duties, a person shall not sell or otherwise distribute a device that solely contains nitrous oxide to a person under the age of 18 for any purpose unless the person under the age of 18 is accepting delivery of a device containing nitrous oxide or a device used to dispense nitrous oxide in his or her capacity as an employee.

(2) A person who knowingly sells or distributes a device that solely contains nitrous oxide to a person who is under the age of 18 in violation of subsection (1), or who fails to make diligent inquiry as to whether the person is a minor, is liable for a civil fine and may be ordered to pay not more than \$500.00.

(3) A person shall not sell or otherwise distribute to another person any device that contains any quantity of nitrous oxide or sell or otherwise distribute a device to dispense nitrous oxide for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulling of the senses or nervous system. This subsection does not apply to nitrous oxide that has been denatured or otherwise rendered unfit for human consumption or to any of the following:

(a) A person licensed under chapter VII of the food law, 2000 PA 92, MCL 289.7101 to 289.7137, who sells or otherwise distributes the device as a grocery product.

(b) A person engaged in the business of selling or distributing catering supplies only or food processing equipment only, or selling or distributing compressed gases for industrial or medical use who sells or otherwise distributes the device in the course of that business.

(c) A pharmacist, pharmacist intern, or pharmacy as defined in section 17707 of the public health code, 1978 PA 368, MCL 333.17707, who dispenses the device in the course of his or her duties as a pharmacist or pharmacist intern or as a pharmacy.

(d) A health care professional.

(4) A person who violates subsection (3) 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 93 days or a fine of not more than \$100.00, or both.

(b) If the person has 1 prior conviction, 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.

(c) If the person has 2 or more prior convictions, 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.

(5) As used in this section:

(a) "Diligent inquiry" means a diligent good-faith effort to determine the age of a person, which includes at least an examination of an official Michigan operator's or chauffeur's license, an official Michigan personal identification card, a military identification card, or any other bona fide picture identification that establishes the identity and age of the person.

(b) "Prior conviction" means a previous violation of this section or a law of another state, a law of a local unit of government of this state or another state, or a law of the United States substantially corresponding to this section.

**History:** Add. 2000, Act 299, Eff. Jan. 1, 2001 ;-- Am. 2018, Act 136, Eff. Aug. 8, 2018

#### **752.272b Action to recover civil fine under MCL 752.272a.**

Sec. 2b.

The attorney general or a prosecuting attorney for the county in which the violation occurred may bring an action to recover a civil fine under section 2a.

**History:** Add. 2018, Act 137, Eff. Aug. 8, 2018

#### **752.273 Violation as misdemeanor; penalty.**

Sec. 3.

Except as provided in section 2a, a person who violates this act 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.

**History:** 1967, Act 119, Eff. Nov. 2, 1967 ;-- Am. 2000, Act 299, Eff. Jan. 1, 2001

#### **752.274 Repealed. 2000, Act 299, Eff. Jan. 1, 2001.**

**Compiler's Notes:** The repealed section pertained to penalty for aiding or abetting violation of act.

## **OVERTHROW OF GOVERNMENT**

### **Act 168 of 1935**

752.301, 752.302 Repealed. 1950, Ex. Sess., Act 38, Imd. Eff. Sept. 8, 1950.

## **OVERTHROW OR DESTRUCTION OF GOVERNMENT**

### **Act 38 of 1950 (Ex. Sess.)**

752.311-752.315 Repealed. 1978, Act 571, Imd. Eff. Jan. 2, 1979.

## **MICHIGAN COMMUNIST CONTROL LAW**

### **Act 117 of 1952**

752.321-752.332 Repealed. 1978, Act 571, Imd. Eff. Jan. 2, 1979.

## **SIGNAL AND BARRICADE WHERE ICE IS CUT**

### **Act 221 of 1899**

752.351-752.353 Repealed. 2000, Act 196, Imd. Eff. June 22, 2000.

## **OBSCENE MATERIAL**

### **Act 343 of 1984**

AN ACT to define and prohibit the possession or dissemination of obscene material under certain circumstances; to prohibit conduct related thereto; to provide penalties; to prohibit local units of government from enacting or enforcing any law, ordinance, or rule pertaining to matters under this act; and to repeal certain acts and parts of acts.

**History:** 1984, Act 343, Eff. Mar. 29, 1985

*The People of the State of Michigan enact:*

### **752.361 Meanings of words and phrases.**

#### **Sec. 1.**

For the purposes of this act, the words and phrases in sections 2 to 4 have the meanings ascribed to them in those sections.

**History:** 1984, Act 343, Eff. Mar. 29, 1985

## **752.362 Definitions; C to O.**

### **Sec. 2.**

(1) "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 act.

(2) "Disseminate" means to manufacture, sell, lend, rent, publish, exhibit, or lease to the public for commercial gain or to offer or agree to manufacture, sell, lend, rent, publish, exhibit, or lease to the public for commercial gain.

(3) "Knowledge of content and character" means having general knowledge of the nature and character of the material involved. Knowledge of content and character may be proven by direct evidence or by circumstantial evidence, or both.

(4) "Material" means anything tangible that is capable of being used or adapted to arouse prurient interest, whether through the medium of reading, observation, sound, or in any other manner, including but not limited to, anything printed or written, any book, magazine, newspaper, pamphlet, picture, drawing, pictorial representation, motion picture, photograph, video tape, video disk, film, transparency, slide, audiotape, audiodisk, computer tape, or any other medium used to electronically produce or reproduce images on a screen, or any mechanical, chemical, or electronic reproduction. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects whether or not processing or other acts are required to make the content of the material apparent.

(5) "Obscene" means any material that meets all of the following criteria:

(a) The average individual, applying contemporary community standards, would find the material, taken as a whole, appeals to the prurient interest.

(b) The reasonable person would find the material, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(c) The material depicts or describes sexual conduct in a patently offensive way.

**History:** 1984, Act 343, Eff. Mar. 29, 1985 ;-- Am. 1992, Act 216, Eff. Mar. 31, 1993

## **752.363 Definitions; P.**

### **Sec. 3.**

(1) "Person" means an individual, or a sole proprietorship, partnership, corporation, association, or other legal entity, or an agent or servant of an individual or legal entity.

(2) "Prurient interest" means a shameful or morbid interest in nudity, sex, or excretion.

**History:** 1984, Act 343, Eff. Mar. 29, 1985

## **752.364 "Sexual conduct" defined.**

### **Sec. 4.**

(1) "Sexual conduct" means 1 or more of the following:

(a) Representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated.

(b) Representations or descriptions of masturbation, excretory functions, or a lewd exhibition of the genitals.

(2) "Simulated" means the explicit depiction or description of any of the types of conduct set forth in the definition of sexual conduct under subsection (1), which creates the appearance of such conduct.

(3) "Ultimate sexual acts" means sexual intercourse, fellatio, cunnilingus, 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, or depictions or descriptions of sexual bestiality, sadomasochism, masturbation, or excretory functions.

**History:** 1984, Act 343, Eff. Mar. 29, 1985

**752.365 Obscenity; elements; misdemeanor; penalty; second or subsequent offense as a felony.**

Sec. 5.

(1) A person is guilty of obscenity when, knowing the content and character of the material, the person disseminates, or possesses with intent to disseminate, any obscene material.

(2) Obscenity is a misdemeanor, punishable by imprisonment for not more than 1 year, or by a fine of not more than \$100,000.00, or both.

(3) A person convicted of a second or subsequent offense under this section is guilty of a felony and may be imprisoned for not more than 2 years, and shall be fined not less than \$50,000.00 or more than \$5,000,000.00. For purposes of this section, an offense is considered a second or subsequent offense if the defendant has previously been convicted under this section or under any similar statute of the United States or of any state.

**History:** 1984, Act 343, Eff. Mar. 29, 1985 ;-- Am. 1992, Act 216, Eff. Mar. 31, 1993

**752.366 Repealed. 1992, Act 216, Eff. Mar. 31, 1993.**

**Compiler's Notes:** The repealed section pertained to obscenity in the second degree.

**752.367 Applicability of MCL 752.365.**

Sec. 7.

Section 5 does not apply to the dissemination of obscene material by any of the following:

(a) An individual who disseminates obscene material in the course of his or her duties as an employee of, or as a member of the board of directors of, any of the following:

(i) A public or private college, university, or vocational school.

(ii) A library established by this state or a library established by a county, city, township, village, or other local unit of government or authority or combination of local units of government and authorities or a library established by a community college district.

(iii) A public or private not for profit art museum that is exempt from taxation under section 501(c)(3) of the internal revenue code.

(b) An individual who disseminates obscene material in the course of the individual's employment and does not have discretion with regard to that dissemination or is not involved in the management of the employer.

(c) Any portion of a business regulated by the federal communications commission.

(d) A cable television operator that is subject to the communications act of 1934, chapter 652, 48 Stat. 1064.

**History:** 1984, Act 343, Eff. Mar. 29, 1985 ;-- Am. 1992, Act 216, Eff. Mar. 31, 1993

**752.368 Prohibited conduct; violation as misdemeanor; penalty.**

Sec. 8.

(1) A person shall not:

(a) As a condition to a sale, allocation, consignment, or delivery for the resale of any paper, magazine, periodical, book, publication, or other merchandise, require or demand that the purchaser or consignee receive for resale or further commercial distribution any obscene material.

(b) Deny, revoke, or threaten to deny or revoke a franchise, or impose or threaten to impose any penalty, financial or otherwise, because of the failure or refusal to accept obscene material or material reasonably believed by the purchaser or consignee to be obscene.

(2) A violation of this section is a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than \$500.00, or both.

**History:** 1984, Act 343, Eff. Mar. 29, 1985

#### **752.369 Action by prosecuting attorney or attorney general.**

Sec. 9.

A prosecuting attorney or the attorney general may commence and prosecute an action under this act.

**History:** 1984, Act 343, Eff. Mar. 29, 1985

#### **752.370 Prohibited law, ordinance, or rules; exceptions.**

Sec. 10.

(1) A municipality, township, village, city, or an instrumentality thereof shall not enact or enforce any law, ordinance, or rule which regulates, or intends to regulate, any matter covered by this act.

(2) Subsection (1) does not apply to a zoning law, zoning ordinance, or zoning rule.

**History:** 1984, Act 343, Eff. Mar. 29, 1985

#### **752.371-752.373 Repealed. 1992, Act 216, Eff. Mar. 31, 1993.**

**Compiler's Notes:** The repealed sections pertained to obtaining and using an advisory opinion and declaratory judgment and establishing a burden of proof.

#### **752.374 Repeal of MCL 750.343a to 750.343d, 750.344, 750.345, 750.345a, and 750.346.**

Sec. 14.

Sections 343a to 343d, 344, 345, 345a, and 346 of Act No. 328 of the Public Acts of 1931, being sections 750.343a to 750.343d, 750.344, 750.345, 750.345a, and 750.346 of the Michigan Compiled Laws, are repealed.

**History:** 1984, Act 343, Eff. Mar. 29, 1985

## **WATERCRAFT; SOUND, SPEED, AND LIGHT**

### **Act 215 of 1931**

752.401-752.404 Repealed. 1964, Act 256, Eff. Aug. 28, 1964.

## **PSITTACINE BIRDS**

### **Act 164 of 1943**

752.441,752.442 Repealed. 1960, Act 7, Eff. Aug. 17, 1960.

## **Revised Statutes of 1846**

### **R.S. of 1846**

#### **Chapter 158**

Chapter 158. Of Offences Against Chastity, Morality and Decency.

#### **752.461 House of ill-fame or gaming house; conviction of lessee; effect on lease.**

Sec. 11.

Whenever the lessee of any dwellinghouse shall be convicted, or shall be guilty of the offense mentioned in the preceding section, or of keeping a common gaming house for the purpose of gaming for money or other property, the lease or contract for letting such house, shall, at the option of the lessor, become void, and such lessor shall thereupon have the like remedy to recover the possession, as against a tenant holding over after the expiration of his term.

**History:** R.S. 1846, Ch. 158 ;-- CL 1857, 5866 ;-- Am. 1865, Act 226, Eff. June 22, 1865 ;-- CL 1871, 7701 ;-- How. 9287 ;-- CL 1897, 11698 ;-- CL 1915, 15472 ;-- CL 1929, 16827 ;-- CL 1948, 752.461

**Compiler's Notes:** For "preceding section," referred to in this section, see Â§ 10 of Ch. 158 of R.S. 1846 and notes to MCL 750.452 and 750.566.

## **CROSSING RAILROAD TRACKS**

### **Act 94 of 1943**

752.501-752.503 Repealed. 1949, Act 300, Eff. Sept. 23, 1949.

## **Revised Statutes of 1846**

### **R.S. of 1846**

Chapter 158-Continued-2  
Chapter 158. Of Offences Against Chastity, Morality and Decency.

**752.525 Religious meeting, disturbance, carrying on certain business within two miles, obstruction of highway; prohibited acts.**

Sec. 25.

No person shall wilfully disturb, interrupt, or disquiet any assembly of people met for religious worship, by profane discourse, by rude and indecent behavior, or by making a noise either within the place of worship, or so near it as to disturb the order and solemnity of the meeting; nor shall any person within 2 miles of the place where any religious society shall be actually assembled for religious worship, expose to sale or gift, any ardent or distilled liquors, wine, beer, cider, fruit, or any other article of food or merchandize, or keep open any huxter shop in any other place, inn, stand or grocery, than such as shall be, or have been duly licensed, or in which such person shall have usually carried on such business; nor shall any person within the distance aforesaid, exhibit any shows, or plays, unless the same shall have been duly licensed by the proper authority; nor shall any person within the distance aforesaid, promote, aid, or be engaged in any racing of any animals, or in any gaming of any description; nor shall any person obstruct the free passage of any highway to any place of public worship, within the distance aforesaid.

**History:** R.S. 1846, Ch. 158 ;-- CL 1857, 5880 ;-- CL 1871, 7714 ;-- How. 9300 ;-- CL 1897, 11713 ;-- CL 1915, 15488 ;-- CL 1929, 16839 ;-- CL 1948, 752.525

**752.526 Violation of MCL 752.525; fine.**

Sec. 26.

Whoever shall violate either of the provisions of the foregoing section, may be convicted before the district or municipal court of the judicial district or municipality where the offense was committed, and on such conviction shall be fined a sum not exceeding \$25.00, for the benefit of the township libraries.

**History:** R.S. 1846, Ch. 158 ;-- CL 1857, 5881 ;-- CL 1871, 7715 ;-- How. 9301 ;-- CL 1897, 11714 ;-- CL 1915, 15489 ;-- CL 1929, 16840 ;-- CL 1948, 752.526 ;-- Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991

**752.527 Duty to apprehend offender.**

Sec. 27.

It shall be the duty of all sheriffs, and their deputies, coroners, marshals, constables, and other peace officers, all presiding elders, and ministers of the gospel, deacons, stewards and official members of any church or religious society, who may be present at the meeting of any assembly for religious worship, which shall be interrupted or disturbed in the manner prohibited, on sight to apprehend the offender, and take him or her before the district or municipal court of the judicial district or municipality, to be proceeded against according to law.

**History:** R.S. 1846, Ch. 158 ;-- CL 1857, 5882 ;-- Am. 1871, Act 61, Eff. July 18, 1871 ;-- CL 1871, 7716 ;-- How. 9302 ;-- CL 1897, 11715 ;-- CL 1915, 15490 ;-- CL 1929, 16841 ;-- CL 1948, 752.527 ;-- Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991

### **752.528 Ordering offender into custody.**

Sec. 28.

All judges, mayors, and aldermen, within their respective jurisdictions, upon their own view of any person offending against the provisions of either of the last 3 preceding sections of this chapter, may order the offender into the custody of any officer in the preceding section named, or any official member of the church or society so assembled or disturbed, for safe keeping, until he or she shall be held to bail, or a trial for such offense be had.

**History:** R.S. 1846, Ch. 158 ;-- CL 1857, 5883 ;-- CL 1871, 7717 ;-- How. 9303 ;-- CL 1897, 11716 ;-- CL 1915, 15491 ;-- CL 1929, 16842 ;-- CL 1948, 752.528 ;-- Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991

### **752.529 Religious meeting, disturbance, carrying on certain business within two miles, obstruction of highway; commitment to jail if penalty not paid.**

Sec. 29.

If any person convicted of any of the offenses herein prohibited, shall not immediately pay the penalty incurred, with the costs of the conviction, or give security to the satisfaction of the officer before whom the conviction shall be had, for the payment of the said penalty and costs within 20 days thereafter, he shall be committed by warrant to the common jail of the county, until the same be paid, or for such term, not exceeding 30 days, as shall be specified in the warrant.

**History:** R.S. 1846, Ch. 158 ;-- CL 1857, 5884 ;-- CL 1871, 7718 ;-- How. 9304 ;-- CL 1897, 11717 ;-- CL 1915, 15492 ;-- CL 1929, 16843 ;-- CL 1948, 752.529

### **752.530 Jury trial; costs.**

Sec. 30.

It shall be lawful for any person complained of, for the violation of any of the provisions of either of the last 2 preceding sections of this chapter, before the court shall proceed to investigate the merits of the cause, to demand of such court, that he or she may be tried by a jury; upon such demand, it shall be the duty of such court to issue a venire to any constable of the county or marshal of the city where the case is to be tried, commanding such officer to summon the same number of jurors, and in the same manner as is provided for in the summoning of jurors before the district or municipal court. The court shall proceed to impanel a jury for the trial of the cause, in the same manner, and shall be subject to all the rules and regulations prescribed in the act providing for trial by jury in the district or municipal court. The costs of suit shall be paid by the party offending in case of conviction, and shall be the same as is allowed by law in civil cases.

**History:** R.S. 1846, Ch. 158 ;-- CL 1857, 5885 ;-- CL 1871, 7719 ;-- How. 9305 ;-- CL 1897, 11718 ;-- CL 1915, 15493 ;-- CL 1929, 16844 ;-- CL 1948, 752.530 ;-- Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991

## **RIOTS AND RELATED CRIMES**

### **Act 302 of 1968**

AN ACT to define and prescribe the penalties for the crime of rioting and related crimes; and to repeal certain acts and parts of acts.

**History:** 1968, Act 302, Imd. Eff. July 1, 1968

*The People of the State of Michigan enact:*

**752.541 Riot.**

Sec. 1.

It is unlawful and constitutes the crime of riot for 5 or more persons, acting in concert, to wrongfully engage in violent conduct and thereby intentionally or recklessly cause or create a serious risk of causing public terror or alarm.

**History:** 1968, Act 302, Imd. Eff. July 1, 1968

**752.542 Inciting to riot.**

Sec. 2.

It is unlawful and constitutes incitement to riot for a person or persons, intending to cause or to aid or abet the institution or maintenance of a riot, to do an act or engage in conduct that urges other persons to commit acts of unlawful force or violence, or the unlawful burning or destroying of property, or the unlawful interference with a police officer, peace officer, fireman or a member of the Michigan national guard or any unit of the armed services officially assigned to riot duty in the lawful performance of his duty.

**History:** 1968, Act 302, Imd. Eff. July 1, 1968

**752.542a Riot at state correctional facility.**

Sec. 2a.

A person shall not willfully instigate, cause, attempt to cause, assist in causing, or conspire to cause a riot at a state correctional facility. As used in this section, "riot at a state correctional facility" means 3 or more persons, acting in concert, who intentionally or recklessly engage in violent conduct within a state correctional facility that threatens the security of the state correctional facility or threatens the safety or authority of persons responsible for maintaining the security of the state correctional facility.

**History:** Add. 1988, Act 393, Eff. Mar. 30, 1989

**752.543 Unlawful assembly.**

Sec. 3.

It is unlawful and constitutes an unlawful assembly for a person to assemble or act in concert with 4 or more persons for the purpose of engaging in conduct constituting the crime of riot, or to be present at an assembly that either has or develops such a purpose and to remain thereat with intent to advance such purpose.

**History:** 1968, Act 302, Imd. Eff. July 1, 1968

**752.544 Violation as felony; penalty.**

Sec. 4.

(1) A violation of section 1, 2, or 2a is a felony, punishable by not more than 10 years in prison or a fine of not more than \$10,000.00, or both.

(2) A violation of section 3 is a felony, punishable by not more than 5 years in prison or a fine of not more than \$5,000.00, or both.

**History:** 1968, Act 302, Imd. Eff. July 1, 1968 ;-- Am. 1988, Act 393, Eff. Mar. 30, 1989

**752.545 Repeal.**

Sec. 5.

Sections 521 and 522 of Act No. 328 of the Public Acts of 1931, being sections 750.521 and 750.522 of the Compiled Laws of 1948, are repealed.

**History:** 1968, Act 302, Imd. Eff. July 1, 1968

**752.546 Effective date.**

Sec. 6.

This act shall take effect July 1, 1968.

**History:** 1968, Act 302, Imd. Eff. July 1, 1968

**PROHIBITED CONDUCT AT INSTITUTIONS OF HIGHER EDUCATION**

**Act 26 of 1970**

AN ACT to provide penalties for certain conduct at public institutions of higher education.

**History:** 1970, Act 26, Imd. Eff. Aug. 1, 1970

*The People of the State of Michigan enact:*

**752.581 Colleges and universities; wilfully remaining on premises, misdemeanor, penalty.**

Sec. 1.

A person is guilty of a misdemeanor, punishable by a fine of not more than \$500.00, or by incarceration in the

county jail for not more than 30 days, or both:

(a) When the chief administrative officer of a publicly owned and operated institution of higher education, or his designee, notifies the person that he is such officer or designee and that the person is in violation of the properly promulgated rules of the institution; and

(b) When the person is in fact in violation of such rules; and

(c) When, thereafter, such officer or designee directs the person to vacate the premises, building or other structure of the institution; and

(d) When the person thereafter wilfully remains in or on such premises, building or other structure; and

(e) When, in so remaining therein or thereon, the person constitutes (1) a clear and substantial risk of physical harm or injury to other persons or of damage to or destruction of the property of the institution, or (2) an unreasonable prevention or disruption of the customary and lawful functions of the institution, by occupying space necessary therefor or by use of force or by threat of force.

**History:** 1970, Act 26, Imd. Eff. Aug. 1, 1970

#### **752.582 Colleges and universities; damaging or disrupting, misdemeanor.**

##### **Sec. 2.**

A person is guilty of a misdemeanor, punishable by a fine of not less than \$200.00 and not more than \$1,000.00, or by incarceration in the county jail for not more than 90 days, or both, who enters on the premises, building or other structure of a publicly owned and operated institution of higher education, with the intention to, and therein or thereon does in fact, constitute (a) a clear and substantial risk of physical harm or injury to other persons or of damage to or destruction of the property of the institution, or (b) an unreasonable prevention or disruption of the customary and lawful function of the institution, by occupying space necessary therefor or by use of force or by threat of force.

**History:** 1970, Act 26, Imd. Eff. Aug. 1, 1970

#### **752.583 Effective date.**

##### **Sec. 3.**

This act shall take effect August 1, 1970.

**History:** 1970, Act 26, Imd. Eff. Aug. 1, 1970

### **NONTRANSFERABLE RAILROAD, STEAMSHIP, OR BUS TICKETS**

#### **Act 269 of 1937**

752.651-752.652 Repealed. 2015, Act 210, Eff. Mar. 14, 2016.

### **TIMBER**

#### **Act 165 of 1867**

752.701-752.703 Repealed. 1998, Act 311, Eff. Jan. 1, 1999.

## **TOMATOES**

### **Act 113 of 1939**

752.751, 752.752 Repealed. 2007, Act 10, Imd. Eff. May 24, 2007.

## **TRADE SECRETS**

### **Act 329 of 1968**

752.771-752.773 Repealed. 1998, Act 448, Imd. Eff. Dec. 30, 1998.

## **UNAUTHORIZED TRANSFER OF RECORDED SOUND**

### **Act 274 of 1975**

AN ACT to prohibit the unauthorized transfer of recorded sound and the sale, transfer, advertising, or possession for sale or transfer, of products resulting therefrom; and to provide penalties and remedies.

**History:** 1975, Act 274, Eff. Mar. 31, 1976

*The People of the State of Michigan enact:*

#### **752.781 "Owner" defined.**

##### **Sec. 1.**

As used in this act, "owner" means the person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film, or other article used for reproducing sound on phonograph records, discs, tapes, films, or other articles upon which sound is recorded, and from which the transferred recorded sound is directly or indirectly derived.

**History:** 1975, Act 274, Eff. Mar. 31, 1976

#### **752.782 Transfer of recorded sound for sale or sales promotion without consent of owner; penalty.**

##### **Sec. 2.**

(1) A person, without the consent of the owner, shall not transfer or cause to be transferred sound recorded on a phonograph record, disc, wire, tape, film, or other article on which sound is recorded, with the intent to sell or cause to be sold for profit or used to promote the sale of a product, the article on which the sound is so transferred.

(2) A person who violates this section shall be 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.

**History:** 1975, Act 274, Eff. Mar. 31, 1976

#### **752.783 Advertising or sale of recorded sound without consent of owner.**

Sec. 3.

(1) A person, knowing or having reasonable grounds to know that the sound thereon has been transferred without the consent of the owner, shall not advertise, sell, resell, offer for sale or resale, or possess for the purpose of sale or resale, an article that has been produced in violation of section 2.

(2) A person who violates this section shall be guilty of a misdemeanor punishable by a fine of not more than \$100.00 for each offense.

**History:** 1975, Act 274, Eff. Mar. 31, 1976

#### **752.784 Recordings to which MCL 752.782 and 752.783 applicable.**

Sec. 4.

Sections 2 and 3 of this act shall apply only to those recordings originally fixed before February 15, 1972, which were not protected by 17 U.S.C. section 1(f).

**History:** 1975, Act 274, Eff. Mar. 31, 1976

#### **752.785 Persons to whom act inapplicable.**

Sec. 5.

This act does not apply to a person who transfers or causes to be transferred sound:

- (a) Intended for or in connection with radio or television broadcast transmission or related uses.
- (b) For archival, library, or educational purposes.
- (c) Solely for the personal use of the person transferring or causing the transfer and without any compensation being derived by the person from the transfer.

**History:** 1975, Act 274, Eff. Mar. 31, 1976

### **FRAUDULENT ACCESS TO COMPUTERS, COMPUTER SYSTEMS, AND COMPUTER NETWORKS**

#### **Act 53 of 1979**

AN ACT to prohibit access to computers, computer systems, and computer networks for certain fraudulent purposes; to prohibit intentional and unauthorized access, alteration, damage, and destruction of computers, computer systems, computer networks, computer software programs, and data; to prohibit the sending of certain electronic messages; and to prescribe penalties.

**History:** 1979, Act 53, Eff. Mar. 27, 1980 ;-- Am. 2004, Act 242, Imd. Eff. July 21, 2004

*The People of the State of Michigan enact:*

#### **752.791 Meanings of words and phrases.**

##### **Sec. 1.**

For the purposes of this act, the words and phrases defined in sections 2 and 3 have the meanings ascribed to them in those sections.

**History:** 1979, Act 53, Eff. Mar. 27, 1980

#### **752.792 Definitions; A to D.**

##### **Sec. 2.**

(1) "Access" means to instruct, communicate with, store data in, retrieve or intercept data from, or otherwise use the resources of a computer program, computer, computer system, or computer network.

(2) "Aggregate amount" means any direct or indirect loss incurred by a victim or group of victims including, but not limited to, the value of any money, property or service lost, stolen, or rendered unrecoverable by the offense, or any actual expenditure incurred by the victim or group of victims to verify that a computer program, computer, computer system, or computer network was not altered, acquired, damaged, deleted, disrupted, or destroyed by the access. The direct or indirect losses incurred 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 loss involved in the violation of this act.

(3) "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.

(4) "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.

(5) "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.

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

(7) "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.

**History:** 1979, Act 53, Eff. Mar. 27, 1980 ;-- Am. 1996, Act 326, Eff. Apr. 1, 1997 ;-- Am. 2000, Act 181, Eff. Sept. 18, 2000

#### **752.793 Definitions; P to S.**

##### **Sec. 3.**

(1) "Property" includes, but is not limited to, intellectual property, computer data, instructions or programs in either machine or human readable form, financial instruments or information, medical information, restricted personal information, or any other tangible or intangible item of value.

(2) "Services" includes, but is not limited to, computer time, data processing, storage functions, computer

memory, or the unauthorized use of a computer program, computer, computer system, or computer network, or communication facilities connected or related to a computer, computer system, or computer network.

**History:** 1979, Act 53, Eff. Mar. 27, 1980 ;-- Am. 1996, Act 326, Eff. Apr. 1, 1997

**752.794 Prohibited access to computer program, computer, computer system, or computer network.**

Sec. 4.

A person shall not intentionally access or cause access to be made to a computer program, computer, computer system, or computer network to devise or execute a scheme or artifice with the intent to defraud or to obtain money, property, or a service by a false or fraudulent pretense, representation, or promise.

**History:** 1979, Act 53, Eff. Mar. 27, 1980 ;-- Am. 1996, Act 326, Eff. Apr. 1, 1997

**752.795 Prohibited conduct.**

Sec. 5.

A person shall not intentionally and without authorization or by exceeding valid authorization do any of the following:

(a) Access or cause access to be made to a computer program, computer, computer system, or computer network to acquire, alter, damage, delete, or destroy property or otherwise use the service of a computer program, computer, computer system, or computer network.

(b) Insert or attach or knowingly create the opportunity for an unknowing and unwanted insertion or attachment of a set of instructions or a computer program into a computer program, computer, computer system, or computer network, that is intended to acquire, alter, damage, delete, disrupt, or destroy property or otherwise use the services of a computer program, computer, computer system, or computer network. This subdivision does not prohibit conduct protected under section 5 of article I of the state constitution of 1963 or under the first amendment of the constitution of the United States.

**History:** 1979, Act 53, Eff. Mar. 27, 1980 ;-- Am. 1996, Act 326, Eff. Apr. 1, 1997

**752.795a Michigan children's protection registry act; violation.**

Sec. 5a.

A violation of the Michigan children's protection registry act is a violation of this act.

**History:** Add. 2004, Act 242, Imd. Eff. July 21, 2004

**752.796 Use of computer program, computer, computer system, or computer network to commit crime.**

Sec. 6.

(1) A person shall not use a computer program, computer, computer system, or computer network to commit,

attempt to commit, conspire to commit, or solicit another person to commit a crime.

(2) 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.

(3) 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.

**History:** 1979, Act 53, Eff. Mar. 27, 1980 ;-- Am. 1996, Act 326, Eff. Apr. 1, 1997 ;-- Am. 2000, Act 179, Eff. Sept. 18, 2000

**752.796a Violation of MCL 752.795a; penalties; exception; defense; burden of proof; effective date of section.**

**Sec. 6a.**

(1) A person who violates section 5a is guilty of the following:

(a) For the first violation, a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$10,000.00, or both.

(b) For the second violation, a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$20,000.00, or both.

(c) For the third and any subsequent violation, a felony punishable by imprisonment for not more than 3 years or a fine of not more than \$30,000.00, or both.

(2) A person does not violate section 5a because the person is an intermediary between the sender and recipient in the transmission of an electronic message that violates section 5a or unknowingly provides transmission of electronic messages over the person's computer network or facilities that violate section 5a.

(3) It is a defense to an action brought under this section that the communication was transmitted accidentally. The burden of proving that the communication was transmitted accidentally is on the sender.

(4) This section does not take effect until July 1, 2005.

**History:** Add. 2004, Act 242, Eff. July 1, 2005

**752.796b Money, income, and property subject to seizure and forfeiture.**

**Sec. 6b.**

All money and other income, including all proceeds earned but not yet received by a defendant from a third party as a result of the defendant's violations of this act, and all computer equipment, all computer software, and all personal property used in connection with any violation of this act known by the owner to have been used in violation of this act are subject to lawful seizure and forfeiture in the same manner as provided under sections 4701 to 4709 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709.

**History:** Add. 2004, Act 242, Imd. Eff. July 21, 2004

**752.797 Penalties; prior convictions; presumption; reimbursement order; definition.**

**Sec. 7.**

(1) A person who violates section 4 is guilty of a crime as follows:

(a) If the violation involves an aggregate amount 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 aggregate amount, 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 aggregate amount, whichever is greater, or both imprisonment and a fine:

(i) The violation involves an aggregate amount of \$200.00 or more but less than \$1,000.00.

(ii) The person violates this act and has a prior conviction.

(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 aggregate amount, whichever is greater, or both imprisonment and a fine:

(i) The violation involves an aggregate amount of \$1,000.00 or more but less than \$20,000.00.

(ii) The person has 2 prior convictions.

(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 3 times the aggregate amount, or both imprisonment and a fine:

(i) The violation involves an aggregate amount of \$20,000.00 or more.

(ii) The person has 3 or more prior convictions.

(2) A person who violates section 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 5 years or a fine of not more than \$10,000.00, or both.

(b) If the person has a prior conviction, 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) A person who violates section 6 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 1 year or less, 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 more than 1 year 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 7 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 20 years, the person 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.

(f) If the underlying crime is a felony punishable by a maximum term of imprisonment of 20 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.

(4) The court may order that a term of imprisonment imposed under subsection (3) be served consecutively to any term of imprisonment imposed for conviction of the underlying offense.

(5) If the prosecuting attorney intends to seek an enhanced sentence under section 4 or section 5 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.

(6) It is a rebuttable presumption in a prosecution for a violation of section 5 that the person did not have authorization from the owner, system operator, or other person who has authority from the owner or system operator to grant permission to access the computer program, computer, computer system, or computer network or has exceeded authorization unless 1 or more of the following circumstances existed at the time of access:

(a) Written or oral permission was granted by the owner, system operator, or other person who has authority from the owner or system operator to grant permission of the accessed computer program, computer, computer system, or computer network.

(b) The accessed computer program, computer, computer system, or computer network had a pre-programmed access procedure that would display a bulletin, command, or other message before access was achieved that a reasonable person would believe identified the computer program, computer, computer system, or computer network as within the public domain.

(c) Access was achieved without the use of a set of instructions, code, or computer program that bypasses,

defrauds, or otherwise circumvents the pre-programmed access procedure for the computer program, computer, computer system, or computer network.

(7) The court may order a person convicted of violating this act 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.

(8) As used in this section, "prior conviction" means a violation or attempted violation of section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d, or this act or a substantially similar law of the United States, another state, or a political subdivision of another state.

**History:** 1979, Act 53, Eff. Mar. 27, 1980 ;-- Am. 1996, Act 326, Eff. Apr. 1, 1997 ;-- Am. 2000, Act 180, Eff. Sept. 18, 2000

## **VENDING MACHINE SLUGS**

### **Act 148 of 1933**

AN ACT to provide penalties for using, manufacturing, selling or giving away tokens, slugs, or spurious coins for the fraudulent operation of vending machines, coin-boxes, depository boxes or other receptacles, designed to receive lawful coins of the United States of America, in payment for the sale, use or enjoyment of property or service.

**History:** 1933, Act 148, Eff. Oct. 17, 1933

*The People of the State of Michigan enact:*

#### **752.801 Vending machine or other receptacle designed to receive or be operated by lawful coin; use of slugs or other device as misdemeanor; penalty.**

##### **Sec. 1.**

Any person who by means of any token, slug, false or counterfeited coin, or by any other means, method, trick, or device whatsoever not lawfully authorized by the owner, lessee, or licensee of any vending machine, coin-box, depository box, or other receptacle established and maintained for the service of the public, and designed to receive or be operated by lawful coin of the United States of America in furtherance of or in connection with the sale, use, or enjoyment of property or service, knowingly shall operate or cause to be operated, or shall attempt to operate or attempt to cause to be operated, any such vending machine or other receptacle, or whoever shall take, obtain, accept, or receive from or by means of any such vending machine or other receptacle, any article of value or service or the use or enjoyment of any facility or service, without depositing in, delivering to and payment into such vending machine or other receptacle the amount of lawful coin of the United States of America properly chargeable and legally collectible by the owner, lessee, or licensee of the vending machine, coin-box, or other receptacle, as and for the price of an article of value or service or for the use or enjoyment of any facility or service, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not more than \$200.00, or imprisoned for not more than 6 months, or both.

**History:** 1933, Act 148, Eff. Oct. 17, 1933 ;-- CL 1948, 752.801 ;-- Am. 1985, Act 49, Imd. Eff. June 14, 1985

#### **752.802 Slugs for vending machines; manufacture, felony.**

##### **Sec. 2.**

Any person who, with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the

contents of any vending machine, coin-box, depository box or other receptacle designed to receive or be operated by lawful coin of the United States of America in furtherance of or connection with the sale, use or enjoyment of property or service or the use or enjoyment of any facilities, or whoever, knowingly or having cause to believe that the same is intended for fraudulent or unlawful use on the part of the purchaser, donee or user thereof, shall manufacture for sale, sell or give away any token, slug, false or counterfeited coin or any device or substance whatsoever intended or calculated to be placed, deposited or used in any such vending machine, coin-box, depository box or other receptacle, shall be deemed guilty of a felony, and upon conviction thereof shall be fined not more than 500 dollars or imprisoned in the state prison for not more than 5 years or both.

**History:** 1933, Act 148, Eff. Oct. 17, 1933 ;-- CL 1948, 752.802

### **752.803 Construction of act.**

#### **Sec. 3.**

This act shall not be construed to repeal by implication or otherwise any existing law in relation to any of the subject matter hereof.

**History:** 1933, Act 148, Eff. Oct. 17, 1933 ;-- CL 1948, 752.803

## **COIN OPERATED DEVICES**

### **Act 126 of 1970**

AN ACT relating to coin operated devices, including but not limited to parking meters, coin telephones and vending machines; and providing for a penalty.

**History:** 1970, Act 126, Imd. Eff. Jan. 1, 1971

*The People of the State of Michigan enact:*

### **752.811 Coin operated devices; breaking and entering or possession of keys, penalty.**

#### **Sec. 1.**

A person shall be guilty of a felony punishable upon conviction by confinement in the state prison for a period not to exceed 3 years or by a fine of not more than \$1,000.00 or both if he does either of the following:

(a) Enters or forces an entrance, alters or inserts any part of an instrument into any parking meter, vending machine dispensing goods or services, money changer or any other device designed to receive currency or coins with the intent to steal.

(b) Knowingly possesses a key or device, or a drawing, print or mold thereof, adapted and designed to open or break into any such machine with intent to steal money or other contents from it.

**History:** 1970, Act 126, Imd. Eff. Jan. 1, 1971

### **752.812 Effective date of act.**

Sec. 2.

This act shall take effect January 1, 1971.

**History:** 1970, Act 126, Imd. Eff. Jan. 1, 1971

## **ERECTION OF POSTERS, SIGNS, PLACARDS, OR OTHER NOTICES**

### **Act 105 of 1951**

AN ACT regulating the erection of posters, signs and placards on any state, public or privately owned lands; and to prescribe penalties for violations of this act.

**History:** 1951, Act 105, Eff. Sept. 28, 1951

*The People of the State of Michigan enact:*

#### **752.821 Erection of posters on state, public or private lands without permission unlawful.**

Sec. 1.

No person shall erect any poster, sign, placard or other form of notice on any state, public or privately owned lands to prohibit hunting, fishing or trespassing thereon without the written permission of the owner or lessee thereof.

**History:** 1951, Act 105, Eff. Sept. 28, 1951

#### **752.822 Prosecutions.**

Sec. 2.

All prosecutions under this act shall be in the name of the people of the state of Michigan, and shall be brought before the district or municipal court of the judicial district or municipality in which the offense was committed, and within 1 year from the time the offense charged was committed.

**History:** 1951, Act 105, Eff. Sept. 28, 1951 ;-- Am. 1991, Act 154, Imd. Eff. Nov. 25, 1991

#### **752.823 Duties of prosecuting attorney.**

Sec. 3.

It shall be the duty of all prosecuting attorneys of this state in their respective counties to see that the provisions hereof are enforced and to prosecute all persons charged with violating the provisions hereof; but prosecutions on the complaint of any such owner, lessee, or agent may be made without complaint, permit, or consent of the prosecuting attorney.

**History:** 1951, Act 105, Eff. Sept. 28, 1951 ;-- Am. 1991, Act 154, Imd. Eff. Nov. 25, 1991

**752.824 Violations, penalty.**

Sec. 4.

Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$10.00, nor more than \$50.00, and may be committed to the county jail until such fine and costs of the proceedings are paid, not exceeding 30 days; and for a second, or any subsequent conviction, he shall be punished by a fine of not exceeding \$100.00, and in addition thereto shall be imprisoned in the county jail for a period of not more than 30 days.

**History:** 1951, Act 105, Eff. Sept. 28, 1951

**752.825 Resisting arrest.**

Sec. 5.

It shall be unlawful for any person to resist or obstruct any officer or person empowered to make arrests under the provisions of this act.

**History:** 1951, Act 105, Eff. Sept. 28, 1951

**DEATH OR INJURIES FROM FIREARMS**

**Act 10 of 1952**

AN ACT to define the duties of any person who discharges a firearm and thereby injures any person; and to prescribe penalties for violations of the provisions of this act.

**History:** 1952, Act 10, Eff. Sept. 18, 1952

*The People of the State of Michigan enact:*

**752.841 "Firearm" defined.**

Sec. 1.

As used in this act, "firearm" means any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive.

**History:** 1952, Act 10, Eff. Sept. 18, 1952 ;-- Am. 2015, Act 23, Eff. July 1, 2015

**752.842 Firearms; discharging; injuries.**

Sec. 2.

Any person who discharges a firearm and thereby injures or fatally wounds another person, or has reason to believe he has injured or fatally wounded another person, shall immediately stop at the scene and shall give his name and address to the injured person, or any member of his party, and shall render to the person so injured immediate assistance and reasonable assistance in securing medical and hospital care and transportation for such injured person.

**History:** 1952, Act 10, Eff. Sept. 18, 1952

**752.843 Firearms; report of injury or death.**

Sec. 3.

Every person who shall have caused or been involved in an accident in which a human being was killed or injured by means of a firearm, shall, in addition to complying with the provisions of section 2 of this act, immediately thereafter report such injury or death to the nearest office of the state police, or to the sheriff of the county wherein the death or injury occurred, unless such person be physically incapable of making the required report, in which event it shall be the duty of such person or persons to designate an agent to file the report. It shall be the duty of the sheriff, upon receipt of the report herein required, to transmit the same forthwith to the nearest office of the state police.

**History:** 1952, Act 10, Eff. Sept. 18, 1952

**752.844 Reports; availability for use.**

Sec. 4.

Reports required to be filed under the provisions of this act shall not be available for use in any way in any court action, civil or criminal, and shall not be open to general public inspection, but shall be for the purpose of furnishing statistical information as to the number and cause of such accidents. This act shall be construed to supplement the law of this state with respect to evidence and its admissibility.

**History:** 1952, Act 10, Eff. Sept. 18, 1952

**752.845 Firearms; injury to person, penalty, suspension of hunting privileges.**

Sec. 5.

Any person violating any of the provisions of this act shall, upon conviction thereof, be fined not more than \$100.00 and costs of prosecution, or imprisonment in the county jail for not to exceed 90 days, or both such fine and imprisonment in the discretion of the court. In addition to any fine or imprisonment, the court may suspend the hunting privileges of such person for a period of not to exceed 3 years from the date of conviction.

**History:** 1952, Act 10, Eff. Sept. 18, 1952 ;-- Am. 1958, Act 12, Eff. Sept. 13, 1958

**CARELESS, RECKLESS, OR NEGLIGENT USE OF FIREARMS**

## **Act 45 of 1952**

AN ACT to prohibit the careless, reckless or negligent use of firearms and to provide penalties for the violation of this act; and to repeal certain acts and parts of acts.

**History:** 1952, Act 45, Eff. Sept. 18, 1952

*The People of the State of Michigan enact:*

### **752.861 Careless, reckless or negligent use of firearms; penalty.**

#### **Sec. 1.**

Any person who, because of carelessness, recklessness or negligence, but not wilfully or wantonly, shall cause or allow any firearm under his immediate control, to be discharged so as to kill or injure another person, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison for not more than 2 years, or by a fine of not more than \$2,000.00, or by imprisonment in the county jail for not more than 1 year, in the discretion of the court.

**History:** 1952, Act 45, Eff. Sept. 18, 1952

### **752.862 Careless, reckless or negligent use of firearms; injury of property; penalty.**

#### **Sec. 2.**

Any person who, because of carelessness, recklessness or negligence, but not wilfully or wantonly, shall cause or allow any firearm under his control to be discharged so as to destroy or injure the property of another, real or personal, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 90 days or by a fine of not more than \$100.00, if the injury to such property shall not exceed the sum of \$50.00, but in the event that such injury shall exceed the sum of \$50.00, then said offense shall be punishable by imprisonment in the county jail for not more than 1 year or by a fine not exceeding \$500.00.

**History:** 1952, Act 45, Eff. Sept. 18, 1952

### **752.863 Section repealed.**

#### **Sec. 3.**

Section 235a of Act No. 328 of the Public Acts of 1931, being section 750.235a of the Compiled Laws of 1948, is hereby repealed.

**History:** 1952, Act 45, Eff. Sept. 18, 1952

### **752.863[a] Reckless, wanton use or negligent discharge of firearm; penalty.**

Sec. 3.

Any person who shall recklessly or heedlessly or wilfully or wantonly use, carry, handle or discharge any firearm without due caution and circumspection for the rights, safety or property of others shall be guilty of a misdemeanor.

**History:** Add. 1955, Act 14, Eff. Oct. 14, 1955

**Compiler's Notes:** Section 3, as added by Act 14 of 1955, was compiled as MCL 752.863[a] to distinguish it from another section 3, deriving from Act 45 of 1952 and pertaining to the repeal of MCL 750.235a. The compilation numbers formerly assigned to this section were MCL 752.a863 and 752.863a.

### **752.864 Firearms; injury to person or property, suspension of hunting privileges.**

Sec. 4.

In addition to the penalties provided in other sections of this act, the court may suspend the hunting privileges of any person convicted of violating any provision of this act for a period of not to exceed 3 years from the date of conviction.

**History:** Add. 1958, Act 15, Eff. Sept. 13, 1958

## **CARELESS, RECKLESS, OR NEGLIGENT USE OF BOW AND ARROW**

### **Act 81 of 1954**

AN ACT to prohibit the careless, reckless or negligent use of bows and arrows; and to provide penalties for the violation of this act.

**History:** 1954, Act 81, Eff. Aug. 13, 1954

*The People of the State of Michigan enact:*

### **752.881 Careless, reckless or negligent use of bow and arrow; penalty.**

Sec. 1.

Any person who, because of carelessness, recklessness or negligence, but not wilfully or wantonly, shall cause or allow any bow or arrow under his immediate control, to be used so as to kill or injure another person, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison for not more than 2 years, or by a fine of not more than \$2,000.00, or by imprisonment in the county jail for not more than 1 year, in the discretion of the court.

**History:** 1954, Act 81, Eff. Aug. 13, 1954

### **752.882 Property destruction, penalty.**

Sec. 2.

Any person who, because of carelessness, recklessness or negligence, but not wilfully or wantonly, shall cause or allow any bow or arrow under his control to be used so as to destroy or injure the property of another, real or personal, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 90 days or by a fine of not more than \$100.00, if the injury to such property shall not exceed the sum of \$50.00, but in the event that such injury shall exceed the sum of \$50.00, then said offense shall be punishable by imprisonment in the county jail for not more than 1 year or by a fine not exceeding \$500.00.

**History:** 1954, Act 81, Eff. Aug. 13, 1954

#### **752.883 Bow and arrow; injury to person, suspension of hunting privileges.**

Sec. 3.

In addition to the penalties provided in sections 1 and 2, the court may suspend the hunting privileges of any person convicted of violating this act for a period of not to exceed 3 years from the date of conviction.

**History:** Add. 1958, Act 14, Eff. Sept. 13, 1958

### **SPRING, GAS, OR AIR OPERATED HANDGUNS**

#### **Act 186 of 1959**

752.891-752.892 Repealed. 2015, Act 21, Eff. July 1, 2015.

### **LITTERING**

#### **Act 106 of 1963**

752.901-752.906 Repealed. 1994, Act 451, Eff. Mar. 30, 1995.

### **STUDENT SAFETY ACT**

#### **Act 183 of 2013**

AN ACT to create the student safety act; to provide for confidential reports of potential harm or criminal activities directed at school students, school employees, and schools; to establish a hotline for filing those reports; to create the student safety fund and to provide for contributions to and expenditures from that fund; to prescribe the powers and duties of certain state officials and departments; to provide for procedures for the release of certain confidential information; to prescribe penalties; and to repeal acts and parts of acts.

**History:** 2013, Act 183, Imd. Eff. Dec. 13, 2013

**Compiler's Notes:** Enacting section 1 of Act 183 of 2013 provides: "Enacting section 1. This act is repealed effective October 1, 2017." Enacting section 1 of Act 100 of 2017 provides: "Enacting section 1. This act is repealed effective October 1, 2021." Enacting section 1 of Act 550 of 2018 provides: "Enacting section 1. Enacting section 1 of 2013 PA 183, as amended by 2017 PA 100, is repealed."

**752.911 Short title.**

Sec. 1.

This act shall be known and may be cited as the "student safety act".

**History:** 2013, Act 183, Imd. Eff. Dec. 13, 2013

**Compiler's Notes:** Enacting section 1 of Act 183 of 2013 provides: "Enacting section 1. This act is repealed effective October 1, 2017." Enacting section 1 of Act 100 of 2017 provides: "Enacting section 1. This act is repealed effective October 1, 2021." Enacting section 1 of Act 550 of 2018 provides: "Enacting section 1. Enacting section 1 of 2013 PA 183, as amended by 2017 PA 100, is repealed."

**752.912 Definitions.**

Sec. 2.

As used in this act:

- (a) "Department" means the department of state police.
- (b) "Fund" means the student safety fund created in section 7.
- (c) "Hotline" means a statewide toll-free telephone number or other means of communication, or a combination of a toll-free telephone number and another means of communication, that transmits voice, text, photographic, and other messages and information to the department through the departmental website described in section 3(2).
- (d) "School" means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12, regardless of whether school is in session. School includes all school property.
- (e) "School employee" means a full-time or part-time employee of a school, school district, or intermediate school district, including a school administrator, a volunteer with a school, school district, or intermediate school district, or any other individual who provides services to a school, school district, or intermediate school district while he or she is on school property. An individual described in this subdivision is considered a school employee regardless of whether school is in session.
- (f) "School property" means a building, playing field, or property used for school purposes to impart instruction to school students or used for school purposes, functions, and events, regardless of whether school is in session. School property includes a school bus as that term is defined in section 57 of the Michigan vehicle code, 1949 PA 300, MCL 257.57.
- (g) "School student" means an individual who is enrolled as a student in a school regardless of whether school is in session.

**History:** 2013, Act 183, Imd. Eff. Dec. 13, 2013 ;-- Am. 2020, Act 401, Imd. Eff. Jan. 4, 2021

**Compiler's Notes:** Enacting section 1 of Act 183 of 2013 provides: "Enacting section 1. This act is repealed effective October 1, 2017." Enacting section 1 of Act 100 of 2017 provides: "Enacting section 1. This act is repealed effective October 1, 2021." Enacting section 1 of Act 550 of 2018 provides: "Enacting section 1. Enacting section 1 of 2013 PA 183, as amended by 2017 PA 100, is repealed."

**752.913 Potential self-harm and potential harm or criminal acts directed at school students, school employees, or schools; establishment of program for receiving reports and information from public; hotline; operational and administrative oversight; report; referral to community mental health services program psychiatric crisis line; source of information on available community mental health resources and contacts; notice; biannual update of emergency contact information.**

Sec. 3.

(1) The department, in consultation with the department of health and human services and the department of education, shall, to the extent that funds are appropriated for the purpose, establish a program for receiving reports and other information from the public regarding potential self-harm and potential harm or criminal acts, including, but not limited to, sexual abuse, assault, or rape, directed at school students, school employees, or schools in this state. The department shall establish the program within the guidelines of this act. The department shall have access to the information needed to meet the reporting requirements of section 8.

(2) The program described in subsection (1) must include a hotline for receiving reports and information described in subsection (1). The hotline must be available for use 24 hours a day, 365 days a year. The department may provide promotional information regarding the program on its departmental website.

(3) Beginning on the date that the hotline established under this act is operational, all calls received by any existing state-run school violence hotline in operation before the establishment of this act must be directed to the hotline established under this act. Any existing state-run school violence hotline in operation before December 13, 2013 must be disconnected within 6 months after the hotline established under this act is operational.

(4) The department is responsible for the continued operational and administrative oversight of the program. The program must provide for a means to review all information submitted through the hotline and to direct those reports and that information, including any analysis of the potential threat as determined appropriate by the department to local law enforcement officials and school officials. The program must include a means by which responses at the local level are determined and evaluated for effectiveness. The department shall ensure that appropriate training is provided to program personnel in all of the following areas:

(a) Crisis management, including recognizing mental illness and emotional disturbance.

(b) The resources that are available in the community for providing mental health treatment and other human services.

(c) Other matters determined by the department to be relevant to the administration and operation of the program.

(5) A report or other information submitted to the hotline is considered to be a report to a law enforcement agency and must be maintained as a record by the department for at least 1 year, subject to the confidentiality requirements of this act.

(6) The department shall ensure that any hotline information that suggests that a psychiatric emergency is taking place within a county is immediately referred to the community mental health services program psychiatric crisis line for that county.

(7) The department shall develop a source of information on available community mental health resources and contacts, including mental health services. The department shall notify schools and law enforcement of this information source. The notice must include the departmental recommendation that schools and law enforcement, on investigating a case and determining that mental illness or emotional disturbance is or may be involved, utilize this information in aiding subjects and their parents or guardians.

(8) At least biannually, the governing body of a school shall provide to the department current emergency contact information for at least 1 school official to ensure that a school official is able to receive information under subsection (4) at all times. If a governing body provides contact information for more than 1 school official, the governing body shall specify the days and times that each school official is available to receive information under subsection (4).

**History:** 2013, Act 183, Imd. Eff. Dec. 13, 2013 ;-- Am. 2018, Act 371, Eff. Mar. 17, 2019 ;-- Am. 2018, Act 670, Eff. Mar. 28, 2019 ;-- Am. 2020, Act 401, Imd. Eff. Jan. 4, 2021

**Compiler's Notes:** Enacting section 1 of Act 183 of 2013 provides: "Enacting section 1. This act is repealed effective October 1, 2017." Enacting section 1 of Act 100 of 2017 provides: "Enacting section 1. This act is repealed effective October 1, 2021." Enacting section 1 of Act 550 of 2018 provides: "Enacting section 1. Enacting section 1 of 2013 PA 183, as amended by 2017 PA 100, is repealed."

## **752.914 Confidentiality.**

### **Sec. 4.**

(1) Any report or information submitted to the hotline under section 3 is confidential, must not be released except as otherwise provided in this act, and is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) Any report or information submitted to the hotline and forwarded under this act to a law enforcement official or to a school official is confidential, must not be released except as otherwise provided in this act, and is not

subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) A person who intentionally discloses information to another person in violation of subsection (1) or (2) 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.

(4) If a report to the hotline does not result in a referral, or the investigation of a subject results in a determination that no action regarding that subject is warranted, the subject's name must be expunged from the records of all entities involved in the hotline program except as otherwise provided by law.

**History:** 2013, Act 183, Imd. Eff. Dec. 13, 2013 ;-- Am. 2020, Act 401, Imd. Eff. Jan. 4, 2021

**Compiler's Notes:** Enacting section 1 of Act 183 of 2013 provides: "Enacting section 1. This act is repealed effective October 1, 2017." Enacting section 1 of Act 100 of 2017 provides: "Enacting section 1. This act is repealed effective October 1, 2021." Enacting section 1 of Act 550 of 2018 provides: "Enacting section 1. Enacting section 1 of 2013 PA 183, as amended by 2017 PA 100, is repealed."

## **752.915 Disclosure of information.**

### **Sec. 5.**

Information regarding a report or information submitted to the hotline under section 3, including any identifying information, may be disclosed as follows:

(a) By the department, law enforcement agencies, schools, and community mental health service programs, and their employees acting in the course of their duties. However, this subdivision does not allow the disclosure of information that would identify the person who submitted the report or information to the hotline under section 3. The disclosure under this subdivision is necessary for purposes of this act and necessary to address reports and information received under this act.

(b) With the permission of the individual or, if the individual is a minor, with the permission of the minor and his or her parents or guardians.

(c) Pursuant to a court order issued under section 6.

**History:** 2013, Act 183, Imd. Eff. Dec. 13, 2013 ;-- Am. 2020, Act 401, Imd. Eff. Jan. 4, 2021

**Compiler's Notes:** Enacting section 1 of Act 183 of 2013 provides: "Enacting section 1. This act is repealed effective October 1, 2017." Enacting section 1 of Act 100 of 2017 provides: "Enacting section 1. This act is repealed effective October 1, 2021." Enacting section 1 of Act 550 of 2018 provides: "Enacting section 1. Enacting section 1 of 2013 PA 183, as amended by 2017 PA 100, is repealed."

## **752.916 Filing of petition by person charged with criminal offense as result of report or information; disclosure; notice to local governmental unit and attorney general; right to appear in opposition to petition; hearing; petition by prosecuting attorney if reason to believe report or information falsely provided; right of attorney general to appear in other action.**

### **Sec. 6.**

(1) A person who is charged with a criminal offense as a result of a report or information filed under section 3 may petition the court for disclosure of the report or information, including any identifying information, as provided in this subsection. The prosecuting attorney for the local unit of government having jurisdiction and the attorney general shall be notified of the petition not less than 7 days before the hearing on the petition, or as otherwise provided by the court, and have the right to appear in the proceedings to oppose the petition. If a petition is filed under this subsection, the court may conduct a hearing on the petition. If a hearing is conducted, it must be conducted in chambers outside of the presence of the petitioner. If the court determines that the report or information, including any identifying information, is relevant to the criminal proceedings and is essential to the fair trial of the person, the court may order the disclosure of that report or information, including any identifying information, as determined appropriate by the court. The court may place restrictions on the release and use of the

report or information, including any identifying information, obtained under this subsection or may redact material as it considers appropriate. Material reviewed by the court that is not ordered released or that is redacted must be maintained by the court under seal for purposes of appeal only.

(2) If the prosecuting attorney for a local unit of government has reason to believe that a report or other information provided under section 3 was falsely provided, that prosecuting attorney may petition the court to disclose the report or information, including any identifying information. The attorney general shall be notified of the petition not less than 7 days before the hearing on the petition, or as otherwise provided by the court, and has the right to appear in the proceedings to oppose the petition. If the court determines that there is reason to believe that the report or information may have been falsely provided, the court may order the disclosure of the report or information, including any identifying information, as determined appropriate by the court. The court may place restrictions on the release and use of the report or information, including any identifying information, obtained under this subsection or may redact material as it considers appropriate. Material reviewed by the court that is not ordered released or that is redacted must be maintained by the court under seal for purposes of appeal only.

(3) The attorney general may also appear in any other action to oppose the release of any report or information obtained under section 3, including any identifying information.

**History:** 2013, Act 183, Imd. Eff. Dec. 13, 2013 ;-- Am. 2020, Act 401, Imd. Eff. Jan. 4, 2021

**Compiler's Notes:** Enacting section 1 of Act 183 of 2013 provides: "Enacting section 1. This act is repealed effective October 1, 2017." Enacting section 1 of Act 100 of 2017 provides: "Enacting section 1. This act is repealed effective October 1, 2021." Enacting section 1 of Act 550 of 2018 provides: "Enacting section 1. Enacting section 1 of 2013 PA 183, as amended by 2017 PA 100, is repealed."

## **752.917 Student safety fund.**

### **Sec. 7.**

(1) The student safety fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year must remain in the fund and must not lapse to the general fund.

(4) The department shall be the administrator of the fund for auditing purposes.

(5) The department may expend money from the fund, on appropriation, only for 1 or more of the following purposes:

(a) To pay the costs of the department for administering this act.

(b) To pay the costs of operating the hotline under section 3.

(c) To promote public awareness of the program, including the availability of the hotline and the website operated by the department.

(6) Money must not be expended for any promotion program that includes a reference to, or the image or voice of, an elected official, appointed state employee, state employee governed by a senior executive service limited term employment agreement, or a candidate for elective office, that is targeted to a media market in this state.

**History:** 2013, Act 183, Imd. Eff. Dec. 13, 2013 ;-- Am. 2020, Act 401, Imd. Eff. Jan. 4, 2021

**Compiler's Notes:** Enacting section 1 of Act 183 of 2013 provides: "Enacting section 1. This act is repealed effective October 1, 2017." Enacting section 1 of Act 100 of 2017 provides: "Enacting section 1. This act is repealed effective October 1, 2021." Enacting section 1 of Act 550 of 2018 provides: "Enacting section 1. Enacting section 1 of 2013 PA 183, as amended by 2017 PA 100, is repealed."

## **752.918 Annual report.**

### **Sec. 8.**

The department, in consultation with the department of health and human services and the department of education, shall prepare an annual report under this act. The report must be filed not later than July 31 of the year in which the report is due. Copies of the report must be filed with the governor, the secretary of the senate, the clerk of the house of representatives, the clerk of the senate standing committee on appropriations, and the clerk of the house standing committee on appropriations. The report must also be maintained on the department's website. The report must contain all of the following information:

- (a) The number of reports and other information reported to the hotline under this act.
- (b) The number of reports and information reported to the hotline that are forwarded to local law enforcement officials and school officials.
- (c) The number of hotline reports resulting in referral to mental health services.
- (d) The nature of the reports and information reported to the hotline in categories established by the department.
- (e) The responses to the reports and information reported to the hotline at the local level in categories established by the department.
- (f) The source of all funds deposited in the student safety fund.
- (g) The itemized costs and expenditures incurred by the department in implementing this act.
- (h) An analysis of the overall effectiveness of the program in addressing potential self-harm and potential harm or criminal acts directed at schools, school employees, and school students.

**History:** 2013, Act 183, Imd. Eff. Dec. 13, 2013 ;-- Am. 2020, Act 401, Imd. Eff. Jan. 4, 2021

**Compiler's Notes:** Enacting section 1 of Act 183 of 2013 provides: "Enacting section 1. This act is repealed effective October 1, 2017." Enacting section 1 of Act 100 of 2017 provides: "Enacting section 1. This act is repealed effective October 1, 2021." Enacting section 1 of Act 550 of 2018 provides: "Enacting section 1. Enacting section 1 of 2013 PA 183, as amended by 2017 PA 100, is repealed."

## SEXUAL ASSAULT KIT EVIDENCE SUBMISSION ACT

### Act 227 of 2014

AN ACT to create the sexual assault kit evidence submission act; to provide for the collection of sexual assault kit evidence; to prescribe the powers and duties of certain state and local government departments and agencies; to establish certain procedures regarding the collection, handling, and disposition of sexual assault kit evidence; and to prohibit the exclusion of sexual assault kit evidence under certain circumstances.

**History:** 2014, Act 227, Eff. Mar. 31, 2015

*The People of the State of Michigan enact:*

#### 752.931 Short title.

##### Sec. 1.

This act shall be known and may be cited as the "sexual assault kit evidence submission act".

**History:** 2014, Act 227, Eff. Mar. 31, 2015

#### 752.932 Definitions.

##### Sec. 2.

As used in this act:

- (a) "Accredited laboratory" means a DNA laboratory that has received formal recognition that it meets or

exceeds a list of standards, including the FBI director's quality assurance standards, to perform specific tests, established by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic community in accordance with the provisions of the federal DNA identification act, 42 USC 14132, or subsequent laws.

(b) "Analyzed" means evaluating items for the presence of a body fluid, cellular material, or DNA followed by the testing of suitable items at forensic DNA regions for comparison purposes.

(c) "Department" means the department of state police, including its forensic science division.

(d) "Health care facility" includes a hospital, clinic, or urgent care center that is regulated under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, and any other facility that is authorized to provide sexual assault medical forensic exams under that act.

(e) "Law enforcement agency" means the local, county, or state law enforcement agency with the primary responsibility for investigating an alleged sexual assault offense case and includes the employees of that agency.

(f) "Sexual assault kit evidence" means evidence collected from the administration of a sexual assault evidence kit under section 21527 of the public health code, 1978 PA 368, MCL 333.21527.

(g) "Sexual assault evidence kit" means that term as defined in section 21527 of the public health code, 1978 PA 368, MCL 333.21527.

(h) "Sexual assault offense" means a violation or attempted violation of sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520g.

(i) "Victim" means, for the purposes of making communications and receiving notices under this act, an individual who was subjected to a sexual assault offense.

**History:** 2014, Act 227, Eff. Mar. 31, 2015

#### **752.933 Release of sexual assault kit evidence; consent; notice to law enforcement agency; storage policy.**

##### **Sec. 3.**

(1) A health care facility that has obtained written consent to release sexual assault kit evidence shall notify the investigating law enforcement agency, if known, or the law enforcement agency having jurisdiction in that portion of the local unit of government in which the medical facility is located of that fact within 24 hours after obtaining that consent.

(2) A health care facility that has not obtained written consent to release any sexual assault kit evidence shall inform the individual from whom sexual assault kit evidence was obtained of its sexual assault kit evidence storage policy. The information provided under this subsection shall include a statement of the period for which that evidence will be stored before it is destroyed and how the individual can have the evidence released to the investigating law enforcement agency at a later date. Any sexual assault kit evidence that is not released to a law enforcement agency under this section shall be stored for a minimum of 1 year before it is destroyed.

**History:** 2014, Act 227, Eff. Mar. 31, 2015

#### **752.934 Notice of release of sexual assault kit evidence; possession; assignment of criminal complaint number; submission to laboratory or department; analysis; uploading of DNA profiles to databases; failure to comply with requirements of act.**

##### **Sec. 4.**

(1) A law enforcement agency that receives notice under section 3 that sexual assault kit evidence has been released to that law enforcement agency shall take possession of the sexual assault kit evidence from the health care facility within 14 days after receiving that notice.

(2) If a law enforcement agency described in subsection (1) determines that the alleged sexual assault occurred within the jurisdiction of another law enforcement agency and that it does not otherwise have jurisdiction over that assault, that law enforcement agency shall notify the other law enforcement agency of that fact within 14 days after receiving the kit from the health care facility that collected the sexual assault kit evidence.

(3) A law enforcement agency that receives notice under subsection (2) shall take possession of the sexual assault kit evidence from the other law enforcement agency within 14 days after receiving that notice.

(4) The investigating law enforcement agency that takes possession of any sexual assault kit evidence shall assign a criminal complaint number to that evidence in the manner required by that agency and shall submit that evidence to the department or another accredited laboratory for analysis within 14 days after that law enforcement agency takes possession of that evidence under this section. Sexual assault kit evidence that was received by a law enforcement agency within 30 days before the effective date of this act shall also be submitted to the department or other accredited laboratory as provided in this section.

(5) Each submission of sexual assault kit evidence for analysis under this act shall be accompanied by the criminal complaint number required under subsection (4).

(6) All sexual assault kit evidence submitted to the department or an accredited laboratory on or after the effective date of this act shall be analyzed within 90 days after all of the necessary evidence is received by the department or other accredited laboratory, provided that sufficient staffing and resources are available to do so.

(7) The DNA profiles of all sexual assault kit evidence analyzed under this section on or after the effective date of this act shall be uploaded only into those databases at the state and national levels specified by the department.

(8) The failure of a law enforcement agency to take possession of sexual assault kit evidence as provided in this act or to submit that evidence to the department or other accredited laboratory within the time prescribed under this act does not alter the authority of the law enforcement agency to take possession of that evidence or to submit that evidence to the department or other accredited laboratory under this act and does not alter the authority of the department or other accredited laboratory to accept and analyze the evidence or to upload the DNA profile obtained from that evidence into state and national DNA databases under this act.

(9) The failure to comply with the requirements of this act does not constitute grounds in any criminal proceeding for challenging the validity of a database match or of any database information, and any evidence of that DNA record shall not be excluded by a court on those grounds.

(10) A person accused or convicted of committing a crime against the victim has no standing to object to any failure to comply with the requirements of this act, and the failure to comply with the requirements of this act is not grounds for setting aside the conviction or sentence.

**History:** 2014, Act 227, Eff. Mar. 31, 2015

### **752.935 Destruction or disposal of sexual assault kit evidence; notice to victim.**

#### **Sec. 5.**

If a law enforcement agency intends to destroy or otherwise dispose of any sexual assault kit evidence in a sexual assault offense case before the expiration for the limitation period applicable under section 24 of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.24, and its destruction does not otherwise conflict with the requirements of section 16 of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.16, the law enforcement agency with the primary responsibility for investigating the case shall notify the victim of that intention in writing at least 60 days before the evidence is destroyed or otherwise disposed of.

**History:** 2014, Act 227, Eff. Mar. 31, 2015

## **SEXUAL ASSAULT VICTIM'S ACCESS TO JUSTICE ACT**

### **Act 319 of 2014**

AN ACT to create a sexual assault victim's access to justice act; to provide for certain victim's rights in sexual assault cases; to require certain notifications; and to require certain duties of certain state and local officials and agencies.

**History:** 2014, Act 319, Eff. Apr. 1, 2015

**752.951 Short title.**

Sec. 1.

This act shall be known and may be cited as the "sexual assault victim's access to justice act".

**History:** 2014, Act 319, Eff. Apr. 1, 2015

**752.952 Definitions.**

Sec. 2.

As used in this act:

(a) "Forensic laboratory" means a DNA laboratory that has received formal recognition that it meets or exceeds a list of standards, including the FBI director's quality assurance standards, to perform specific tests, established by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic community in accordance with the provisions of the federal DNA identification act, 42 USC 14132, or subsequent laws.

(b) "Investigating law enforcement agency" means the local, county, or state law enforcement agency with the primary responsibility for investigating an alleged sexual assault offense case and includes the employees of that agency. Investigating law enforcement agency includes a law enforcement agency of a community college or university if that law enforcement agency of a community college or university is responsible for collecting sexual assault evidence.

(c) "Law enforcement agency" means the local, county, or state law enforcement agency and includes the employees of that agency. Law enforcement agency includes a law enforcement agency of a community college or university.

(d) "Sexual assault evidence kit" means that term as defined in section 21527 of the public health code, 1978 PA 368, MCL 333.21527.

(e) "Sexual assault offense" means a violation or attempted violation of sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520g.

(f) "Sexual assault victim" means an individual subjected to a sexual assault offense and, for the purposes of making communications and receiving notices under this act, a person designated by the sexual assault victim under section 4.

**History:** 2014, Act 319, Eff. Apr. 1, 2015

**752.953 Information and notice to be provided to sexual assault victim.**

Sec. 3.

(1) Within 24 hours after the initial contact between a sexual assault victim and the investigating law enforcement agency, that investigating law enforcement agency shall give the sexual assault victim a written copy of, or access to, the following information:

(a) Contact information for a local community-based sexual assault services program, if available.

(b) Notice that he or she can have a sexual assault evidence kit administered and that he or she cannot be billed for this examination as provided in section 5a of 1976 PA 223, MCL 18.355a.

(c) Notice that he or she may choose to have a sexual assault evidence kit administered without being required to participate in the criminal justice system or cooperate with law enforcement as provided in section 5a of 1976 PA 223, MCL 18.355a.

- (d) Notice of the right to request information under sections 5 and 6.
- (e) Notice of the right to request a personal protection order as provided in section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a.
- (2) The information and notice provided under subsection (1) shall also include the notice required under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.
- (3) The Michigan domestic and sexual violence prevention and treatment board, in consultation with law enforcement, shall develop a sample notice card for sexual assault victims. The card shall be made available electronically to Michigan law enforcement agencies no later than June 30, 2015.
- (4) Beginning not later than September 30, 2015, law enforcement agencies shall provide sexual assault victims with the information required in subsection (1).

**History:** 2014, Act 319, Eff. Apr. 1, 2015

#### **752.954 Sexual assault victim's request for information; requirements.**

##### **Sec. 4.**

- (1) When a sexual assault victim requests information from an investigating law enforcement agency under section 5 or 6, the law enforcement agency shall respond by telephone, in writing mailed to the sexual assault victim, or by electronic mail, as specified by the sexual assault victim. If the sexual assault victim is a program participant who requests that the information be mailed to his or her address designated by the department of the attorney general, the law enforcement agency shall respond in writing mailed to the sexual assault victim at that address. If the victim does not specify, the law enforcement agency may respond using any of the methods described in this subsection. If new or updated information becomes available after a response is given to a sexual assault victim's request, the law enforcement agency may, but is not required to, provide the new or updated information to the sexual assault victim in the absence of a new request from him or her.
- (2) This section does not require the law enforcement agency to communicate with the sexual assault victim regarding information if he or she does not specifically make a request to the law enforcement agency.
- (3) A sexual assault victim may designate an alternative person to receive the information requested by the sexual assault victim, and the law enforcement agency shall then direct any information to that designated person.
- (4) To receive information under this section, the sexual assault victim shall provide the law enforcement agency with the name, address, telephone number, and electronic mail address of the person to whom the information should be provided.
- (5) The law enforcement agency may require a sexual assault victim's request for information under this section to be in writing. If a sexual assault victim has submitted a written request for information, subsequent requests for updated information are not required to be in writing.
- (6) As used in subsection (1), "program participant" means that term as defined in section 3 of the address confidentiality program act.

**History:** 2014, Act 319, Eff. Apr. 1, 2015 ;-- Am. 2020, Act 274, Imd. Eff. Dec. 29, 2020

#### **752.955 Information provided to sexual assault victim.**

##### **Sec. 5.**

Upon request by a sexual assault victim to the investigating law enforcement agency, the sexual assault victim shall be provided with the following information if available and if the disclosure does not impede or compromise an ongoing investigation:

- (a) The contact information for the officer investigating the case.
- (b) The current status of the case.
- (c) Whether the case has been submitted to the office of the prosecuting attorney for review.

- (d) If the case has been closed and the documented reason for closure.

**History:** 2014, Act 319, Eff. Apr. 1, 2015

**752.956 Information about forensic testing results; providing copy to sexual assault victim; informational handout.**

**Sec. 6.**

(1) Upon request by a sexual assault victim to the investigating law enforcement agency for information about DNA testing results, the sexual assault victim shall be provided with the following information if available and if the disclosure does not impede or compromise an ongoing investigation:

- (a) When the sexual assault evidence kit was submitted to the forensic laboratory.
- (b) Whether a DNA profile of a suspect was obtained from the processing of evidence in the sexual assault case.
- (c) Whether a DNA profile of a suspect has been entered into any data bank designed or intended to be used for the retention or comparison of case evidence.
- (d) Whether there is a match between the DNA profile of a suspect obtained in the sexual assault case to any DNA profile contained in any data bank designed or intended to be used for the retention or comparison of case evidence.

(2) If a sexual assault victim is provided with information about forensic testing results, he or she shall also be provided with a copy of, or access to, the information handout described in subsection (3).

(3) No later than September 30, 2015, the Michigan domestic and sexual violence prevention and treatment board, in consultation with the department of state police, shall develop an informational handout for sexual assault victims that explains the meaning of possible forensic testing results. The informational handout shall be made available electronically to Michigan law enforcement agencies.

**History:** 2014, Act 319, Eff. Apr. 1, 2015

**752.957 Cause of action for monetary damages.**

**Sec. 7.**

This act does not create a cause of action for monetary damages against the state, a county, a municipality, or any of their agencies, instrumentalities, or employees.

**History:** 2014, Act 319, Eff. Apr. 1, 2015

**SEXUAL ASSAULT EVIDENCE KIT TRACKING AND REPORTING**

**Act 318 of 2014**

AN ACT to create the sexual assault evidence kit tracking and reporting act; to require the tracking and reporting of sexual assault evidence kit information; to create the sexual assault evidence kit tracking and reporting commission; to prescribe the powers and duties of the sexual assault evidence kit tracking and reporting commission; to create a database of information to track and report sexual assault evidence kit information; to make appropriations for various state departments and agencies for the fiscal year ending September 30, 2015, and every subsequent fiscal year, and to provide for the expenditure of the appropriations; and to prescribe the powers and duties of certain state departments and officials.

**History:** 2014, Act 318, Eff. Jan. 1, 2015

**752.961 Definitions.**

Sec. 1.

As used in this act:

- (a) "Commission" means the sexual assault evidence kit tracking and reporting commission created in section 2.
- (b) "Michigan domestic and sexual violence prevention and treatment board" means the Michigan domestic and sexual violence prevention and treatment board created under EO 2012-17.
- (c) "Sexual assault evidence kit" means that term as defined in section 21527 of the public health code, 1978 PA 368, MCL 333.21527.

**History:** 2014, Act 318, Eff. Jan. 1, 2015

**752.962 Sexual assault evidence kit tracking and reporting commission; creation; membership; appointment; vacancy; meetings; election of chairperson and officers; quorum; business conducted at public meeting; writing subject to freedom of information act; duties after initial meeting; implementation of plans; appropriation; abolishment of commission.**

Sec. 2.

(1) The sexual assault evidence kit tracking and reporting commission is created within the Michigan domestic and sexual violence prevention and treatment board. The commission shall consist of the following members:

- (a) The director of the department of state police or his or her designated representative from within the department of state police.
  - (b) The attorney general or his or her designated representative from within the department of the attorney general.
  - (c) The president of the prosecuting attorneys association of Michigan or his or her representative.
  - (d) The president of the Michigan association of chiefs of police or his or her representative.
  - (e) The president of the Michigan sheriff's association or his or her representative.
  - (f) The executive director of the Michigan domestic and sexual violence prevention and treatment board or his or her representative.
  - (g) The executive director of the Michigan coalition to end domestic and sexual violence or his or her representative.
  - (h) The president of the Michigan health and hospital association or his or her representative.
  - (i) A representative appointed by the governor from the executive office of the governor.
  - (j) The president of the Michigan chapter of the international association of forensic nurses or his or her representative.
  - (k) The chairperson of the Michigan crime victim services commission described in section 2 of 1976 PA 223, MCL 18.352, or his or her representative.
  - (l) One individual appointed by the senate majority leader who is a state senator from the majority party within the state senate.
  - (m) One individual appointed by the senate minority leader who is a state senator from the minority party within the state senate.
  - (n) One individual appointed by the speaker of the house of representatives who is a state representative from the majority party within the state house of representatives.
  - (o) One individual appointed by the minority leader of the house of representatives who is a state representative from the minority party within the state house of representatives.
- (2) The members first appointed to the commission under subsection (1)(i) and (l) to (o) shall be appointed within 90 days after the effective date of this act.
- (3) If a vacancy occurs on the commission, the appropriate entity shall make an appointment in the same manner as the original appointment.
- (4) The first meeting of the commission shall be called by the director of the department of state police or his or

her designated representative or the executive director of the Michigan domestic and sexual violence prevention and treatment board no later than 30 days after all of the initial members of the commission have been appointed under subsection (1)(i) and (l) to (o). At the first meeting, the commission shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the commission shall meet at least quarterly, or more frequently at the call of the chairperson or if requested by 7 or more members until the requirements of subsection (8) are met. After the requirements of subsection (8) are met, the commission shall meet as often as required to carry out the requirements of subsection (11).

(5) A majority of the members of the commission constitute a quorum for the transaction of business at a meeting of the commission. A majority of the members present and serving are required for official action of the commission.

(6) The business that the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(7) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(8) The commission shall do all of the following no later than 365 days after its initial meeting:

(a) Develop guidelines and a plan to implement a uniform statewide system to track the location, lab submission status, completion of forensic testing, and storage of sexual assault evidence kits. However, access to any information collected through the statewide system created under this act of unreleased or unused sexual assault evidence kits shall only be disclosed to specific entities selected and identified by the commission that will use the information only for policy or training purposes and to sexual assault victims or their designees as described in subdivision (c). Information collected from an unreleased sexual assault evidence kit shall not contain any information identifying the victim to whom the kit is associated.

(b) Develop guidelines and a plan to implement a uniform system to audit the proper submission of sexual assault evidence kits as mandated in the sexual assault kit evidence submission act, 2014 PA 227, MCL 752.931 to 752.935.

(c) Develop guidelines and a plan to implement a secure electronic access that allows a victim, or his or her designee, to access or receive information about the location, lab submission status, and storage of sexual assault evidence that was gathered from him or her, provided that the disclosure does not impede or compromise an ongoing investigation.

(d) Develop guidelines and a plan to implement a uniform system to audit untested sexual assault evidence kits that have been released by the victim and were collected 30 days before the effective date of the sexual assault kit evidence submission act, 2014 PA 227, MCL 752.931 to 752.935.

(e) Develop guidelines and a plan to safeguard confidentiality of the information and limited disclosure.

(f) Recommend sources of public and private funding to implement the plans developed under this subsection.

(g) Recommend any changes to law or policy needed to support implementation of the plans developed under this subsection.

(h) Submit a report on the plans developed under this subsection to all of the following:

(i) The standing committees of the senate and house of representatives with jurisdiction over issues pertaining to the prosecution of criminal sexual conduct.

(ii) The senate and house of representatives appropriations subcommittees on the departments of state police and the attorney general.

(iii) The senate and house fiscal agencies.

(9) Subject to appropriation of sufficient funding, the commission shall oversee implementation of the plans developed under subsection (8).

(10) There is appropriated \$25,000.00 for the department of human services for the fiscal year ending September 30, 2015 and each fiscal year after that. The funds appropriated under this subsection shall be used only to implement and carry out the purposes of this act.

(11) The commission shall be abolished as follows:

(a) If funds are not appropriated to implement the plan developed under subsection (8), the commission shall be abolished 2 years after the date on which the report described in subsection (8)(h) was submitted.

(b) If funds are appropriated to implement the plan developed under subsection (8), the commission shall be abolished upon the final implementation of the plan.

**History:** 2014, Act 318, Eff. Jan. 1, 2015

## HUMAN TRAFFICKING COMMISSION ACT

### Act 325 of 2014

AN ACT to create the human trafficking commission act; to prescribe the membership of the human trafficking commission; and to prescribe the duties and responsibilities of the human trafficking commission.

**History:** 2014, Act 325, Eff. Jan. 14, 2015

*The People of the State of Michigan enact:*

**752.971 Short title.**

Sec. 1.

This act shall be known and may be cited as the "human trafficking commission act".

**History:** 2014, Act 325, Eff. Jan. 14, 2015

**752.972 Definitions.**

Sec. 2.

As used in this act:

- (a) "Commission" means the human trafficking commission established in section 3.
- (b) "Human trafficking" means a violation of chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h.

**History:** 2014, Act 325, Eff. Jan. 14, 2015

**752.973 Human trafficking commission; establishment; membership; appointment; terms; vacancy; removal; meetings; bylaws; quorum; business conducted at public meeting; writings subject to freedom of information act; compensation; expenses.**

Sec. 3.

(1) The human trafficking commission is established within the department of attorney general. The commission shall include all of the following members:

- (a) The governor or his or her designated representative from within the office of the governor.
- (b) The state attorney general or his or her designated representative from within the department of attorney general.
- (c) The director of the department of state police or his or her designated representative from within the department of state police.
- (d) The director of the department of human services or his or her designated representative from within the department of human services.
- (e) The director of the department of community health or his or her designated representative from within the department of community health.
- (f) The director of the department of licensing and regulatory affairs or his or her designated representative from within the department of licensing and regulatory affairs.
- (g) Two individuals appointed by the governor from a list of individuals submitted by the senate majority leader.
- (h) Two individuals appointed by the governor from a list of individuals submitted by the speaker of the house of representatives.
- (i) One individual who is a circuit court judge who serves in family court and who is appointed by the governor

from a list of 3 individuals submitted by the Michigan judges association or its successor organization. The individuals on the list submitted by the Michigan judges association or its successor organization shall be members of the Michigan judges association or its successor organization.

(j) One individual who is a county prosecuting attorney and who is appointed by the governor from a list of 3 individuals submitted by the prosecuting attorneys association of Michigan or its successor organization. The individuals on the list submitted by the prosecuting attorneys association of Michigan or its successor organization shall be members of the prosecuting attorneys association of Michigan or its successor organization.

(k) One individual who represents the interests of law enforcement and who is appointed by the governor from a list of 3 individuals submitted by the Michigan association of chiefs of police or its successor organization. The individuals on the list submitted by the Michigan association of chiefs of police or its successor organization shall be members of the Michigan association of chiefs of police or its successor organization.

(l) Two individuals who have survived human trafficking and who are appointed by the governor.

(2) The members first appointed to the board under subsection (1)(g) to (l) shall be appointed within 90 days after the effective date of this act.

(3) Members of the commission shall serve as follows:

(a) Members of the commission appointed under subsection (1)(a) to (f) shall serve until a successor is appointed.

(b) Members of the commission appointed under subsection (1)(g) to (l) shall serve for a term of 2 years or until a successor is appointed, whichever is later.

(c) An individual appointed under subsection (1)(i) to (k) shall serve only while he or she is a member of the organization that submitted his or her name for membership on the commission.

(d) An individual may be reappointed for additional terms.

(4) If a vacancy occurs on the commission, the appointing authority shall make an appointment for the unexpired term in the same manner as the original appointment.

(5) The appointing authority may remove the member it appointed to the commission for incompetence, dereliction of duty, malfeasance, misfeasance, nonfeasance in office, or any other good cause.

(6) The first meeting of the commission shall be called within 180 days after the effective date of this act. Before this first meeting, the governor shall appoint the chairperson of the commission from among the members listed in subsection (1). At the first meeting, the commission shall elect from among its members a vice-chairperson and other officers as it considers necessary or appropriate who shall serve for 1-year terms and who may be reelected. After the first meeting, the commission shall meet at least 4 times each year, or more frequently at the call of the chairperson or as otherwise agreed upon in the bylaws.

(7) The commission shall adopt bylaws for the operation of the commission. The bylaws shall, at a minimum, address the procedures for conducting meetings, including voting procedures, and the requirements of its members to attend meetings.

(8) A majority of the members of the commission appointed and serving constitute a quorum for the transaction of business at a meeting of the commission. A majority of the members present and serving are required for the official action of the commission.

(9) The business that the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. However, members of the commission may attend and participate in a meeting of the commission by the use of telecommunication or other electronic equipment if their attendance and participation by the use of telecommunication or other electronic equipment is authorized by the bylaws of the commission and that meeting is otherwise conducted in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(10) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(11) Members of the commission shall serve without compensation. However, members of the commission may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the commission.

**History:** 2014, Act 325, Eff. Jan. 14, 2015

## **752.974 Commission; duties.**

### **Sec. 4.**

The commission shall do all of the following subject to funding:

- (a) Identify sources for grants that will assist in examining and countering human trafficking in this state, and apply for those grants when appropriate.
- (b) Fund research programs to determine the extent and nature of human trafficking in this state.
- (c) Provide information and training regarding human trafficking to police officers, prosecutors, court personnel, health care providers, social services personnel, and other individuals the commission considers appropriate.
- (d) Collect and analyze information regarding human trafficking in this state.
- (e) Identify state and local agencies within this state and other states, as well as within the federal government, that are involved with issues relating to human trafficking, and coordinate the dissemination of information regarding human trafficking in this state to those agencies.
- (f) Review the existing services available to assist victims of human trafficking, including crime victim assistance, health care, and legal assistance, and establish a program to make those victims better aware of the services that are available to them.
- (g) Establish a program to improve public awareness of human trafficking.
- (h) Review existing state laws and administrative rules relating to human trafficking and make recommendations to the legislature to improve those laws and rules to address human trafficking violations in this state.
- (i) File an annual report with the governor, the secretary of the senate, and the clerk of the house of representatives regarding its activities under this act. The report shall be filed not later than February 1 of the year following the year for which the report is due.

**History:** 2014, Act 325, Eff. Jan. 14, 2015

**752.975 Human trafficking commission fund; creation; administration; deposit of money or other assets; investment; interest and earnings; work project; money in fund at close of fiscal year.**

Sec. 5.

- (1) The human trafficking commission fund is created within the department of treasury. The fund shall be administered by the department of attorney general.
- (2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.
- (3) Money in the human trafficking commission fund shall be expended only upon appropriation and only in a manner to carry out the purposes set forth in this act. Money in the fund at the close of the fiscal year is considered a work project, shall remain in the fund, and shall not lapse to the general fund.

**History:** 2014, Act 325, Eff. Jan. 14, 2015

**HUMAN TRAFFICKING VICTIMS COMPENSATION ACT**

**Act 339 of 2014**

AN ACT to provide remedies for the victims of human trafficking.

**History:** 2014, Act 339, Eff. Jan. 14, 2015

*The People of the State of Michigan enact:*

**752.981 Short title.**

Sec. 1.

This act shall be known and may be cited as the "human trafficking victims compensation act".

**History:** 2014, Act 339, Eff. Jan. 14, 2015

#### **752.982 "Victim" defined.**

Sec. 2.

As used in this act, "victim" means a victim of a violation of chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h.

**History:** 2014, Act 339, Eff. Jan. 14, 2015

#### **752.983 Violation of MCL 750.462a to 750.462h; liability to victim; damages.**

Sec. 3.

(1) A person who violates chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h, is liable to the victim of the violation for economic and noneconomic damages that result from the violation, including, but not limited to, all of the following:

- (a) Physical pain and suffering.
- (b) Mental anguish.
- (c) Fright and shock.
- (d) Denial of social pleasure and enjoyments.
- (e) Embarrassment, humiliation, or mortification.
- (f) Disability.
- (g) Disfigurement.
- (h) Aggravation of a preexisting ailment or condition.
- (i) Reasonable expenses of necessary medical or psychological care, treatment, and services.
- (j) Loss of earnings or earning capacity.
- (k) Damage to property.

(l) Any other necessary and reasonable expense incurred as a result of the violation.

(2) A victim is entitled to damages under subsection (1) to the extent the victim has sustained the damages, regardless of whether the victim suffered any physical injury as a result of the violation.

(3) A victim is entitled to damages under subsection (1) regardless of whether the damages sustained were foreseeable to the violator.

(4) A victim is entitled to damages under subsection (1) regardless of whether the violator was charged with or convicted of a violation of chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h.

**History:** 2014, Act 339, Eff. Jan. 14, 2015

#### **752.984 Action to recover damages; statute of limitations.**

Sec. 4.

An action to recover damages under section 3 must be filed within 3 years after the last violation that is the subject of the action occurred.

**History:** 2014, Act 339, Eff. Jan. 14, 2015

**752.985 Recovery of damages under other laws.**

Sec. 5.

This act does not affect any right that a victim has to recover damages under other law.

**History:** 2014, Act 339, Eff. Jan. 14, 2015

**HUMAN TRAFFICKING HEALTH ADVISORY BOARD ACT**

**Act 461 of 2014**

AN ACT to create the human trafficking health advisory board act; to provide for an interdepartmental human trafficking health advisory board; to prescribe the membership of the human trafficking health advisory board; and to prescribe the duties and responsibilities of the human trafficking health advisory board.

**History:** 2014, Act 461, Eff. Jan. 14, 2015

**Compiler's Notes:** For transfer of human trafficking health advisory board from department of community health to department of health and human services, see E.R.O. No. 2015-1, compiled at MCL 400.227.

*The People of the State of Michigan enact:*

**752.991 Short title.**

Sec. 1.

This act shall be known and may be cited as the "human trafficking health advisory board act".

**History:** 2014, Act 461, Eff. Jan. 14, 2015

**Compiler's Notes:** For transfer of human trafficking health advisory board from department of community health to department of health and human services, see E.R.O. No. 2015-1, compiled at MCL 400.227.

**752.992 Definitions.**

Sec. 2.

As used in this act:

(a) "Board" means the human trafficking health advisory board created in section 3.

(b) "Human trafficking" means a violation of chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h.

**History:** 2014, Act 461, Eff. Jan. 14, 2015

**Compiler's Notes:** For transfer of human trafficking health advisory board from department of community health to department of health and human services, see E.R.O. No. 2015-1, compiled at MCL 400.227.

**752.993 Human trafficking health advisory board; creation; membership; appointment; terms; vacancy; removal; chairperson; election of vice-chairperson and officers; meetings; quorum; conducting business at public meeting; writing subject to freedom of information act; compensation; expenses.**

Sec. 3.

(1) The human trafficking health advisory board is created as an autonomous entity within the department of community health. The board shall consist of the following members:

(a) The director of the department of human services or his or her designated representative from within the department of human services.

(b) The director of the department of community health or his or her designated representative from within the department of community health.

(c) One individual appointed by the governor from a list of 3 individuals submitted by the senate majority leader. The individual must be licensed or authorized to engage in the practice of medicine under part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.

(d) One individual appointed by the governor from a list of 3 individuals submitted by the speaker of the house of representatives. The individual must be licensed or authorized to engage in the practice of medicine under part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.

(e) One individual appointed by the governor who has experience and expertise in the field of intervention in or prevention of human trafficking or treatment of human trafficking survivors.

(f) Two individuals appointed by the governor who are human trafficking survivors.

(g) One individual appointed by the governor who is a mental health professional.

(h) One individual appointed by the governor who is a registered professional nurse licensed to engage in the practice of nursing under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242, and who is experienced in an emergency department, emergency room, or trauma center of a hospital licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(2) The members first appointed to the board under subsection (1)(c) to (h) shall be appointed within 90 days after the effective date of this act.

(3) Of the members initially appointed to the board under subsection (1)(c) to (h), 1 member shall be appointed for a term that expires on December 31, 2015, 1 member shall be appointed for a term that expires on December 31, 2016, 2 members shall be appointed for a term that expires on December 31, 2017, and 3 members shall be appointed for terms that expire on December 31, 2018. At the expiration of an initial appointment, a member shall be appointed for a term of 4 years.

(4) A member who attends less than 66 percent of the scheduled meetings of the board in any calendar year shall be considered to have vacated his or her appointment. Upon notification of a vacancy under this subsection or any other vacancy, the governor shall fill the vacancy in the same manner as the original appointment.

(5) The governor may remove a member of the board for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(6) The first meeting of the board shall be called not more than 180 days after the effective date of this act. Before this first meeting, the governor shall appoint the chairperson of the board from among the members listed in subsection (1). At the first meeting, the board shall elect from among its members a vice-chairperson and other officers as it considers necessary or appropriate who shall serve 1-year terms and who may be reelected. After the first meeting, the board shall meet at least quarterly, or more frequently at the call of the chairperson or if requested by a majority of the members then serving.

(7) A majority of the members of the board constitute a quorum for the transaction of business at a meeting of the board. A majority of the members present and serving are required for the official action of the board.

(8) The business that the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(9) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) Members of the board shall serve without compensation. However, members of the board may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the board.

**History:** 2014, Act 461, Eff. Jan. 14, 2015

**Compiler's Notes:** For transfer of human trafficking health advisory board from department of community health to department of health and

human services, see E.R.O. No. 2015-1, compiled at MCL 400.227. For amendment to substitute director of department of health and human services for the director of department of human services and the executive director of Michigan children's services agency for the director of department of community health, see E.R.O. No. 2015-1, compiled at MCL 400.227. For renaming of Michigan children's services agency to children's services administration, see E.R.O. No. 2023-1, compiled at MCL 125.1999.

## **752.994 Duties of board.**

### **Sec. 4.**

The board shall do all of the following:

- (a) Collect and analyze information concerning medical and mental health services available to survivors of human trafficking in this state.
- (b) Identify state and local agencies within this state and other states, as well as within the federal government, that are involved with issues relating to human trafficking, and coordinate the dissemination of information concerning medical and mental health services available to survivors of human trafficking in this state.
- (c) Meet annually with local health agencies to review the existing medical and mental health services available to assist survivors of human trafficking and establish a program to make those survivors better aware of the services that are available to them.
- (d) Establish a program to improve public awareness of medical and mental health services available to survivors of human trafficking in this state.
- (e) Review existing state laws and administrative rules relating to medical and mental health policies affecting survivors of human trafficking and make recommendations to the legislature and state agencies to improve those laws and rules to address medical and mental health services available to survivors of human trafficking in this state.
- (f) File an annual report with the chairs of the committees concerned with health policy of the senate and the house of representatives regarding its activities under this act. The report shall be filed not later than February 1 of each year.

**History:** 2014, Act 461, Eff. Jan. 14, 2015

**Compiler's Notes:** For transfer of human trafficking health advisory board from department of community health to department of health and human services, see E.R.O. No. 2015-1, compiled at MCL 400.227.

## **THE HEALTH CARE FALSE CLAIM ACT**

### **Act 323 of 1984**

AN ACT to prohibit fraud in the obtaining of benefits or payments in connection with health care coverage and insurance; to prohibit kickbacks or bribes in connection with such coverage and insurance; to prohibit conspiracies in obtaining benefits or payments; to provide for certain powers and duties of certain state and local officers and agencies; to provide for and preclude certain civil actions; and to prescribe penalties.

**History:** 1984, Act 323, Eff. Mar. 29, 1985 ;-- Am. 1996, Act 229, Imd. Eff. June 5, 1996

*The People of the State of Michigan enact:*

## **752.1001 Short title.**

### **Sec. 1.**

This act shall be known and may be cited as "the health care false claim act".

**History:** 1984, Act 323, Eff. Mar. 29, 1985

## **752.1002 Definitions.**

### **Sec. 2.**

As used in this act:

(a) "Claim" means any attempt to cause a health care corporation or health care insurer to make the payment of a health care benefit.

(b) "Deceptive" means making a claim to a health care corporation or health care insurer which contains a statement of fact or which fails to reveal a material fact, which statement or failure leads the health care corporation or health care insurer to believe the represented or suggested state of affair to be other than it actually is.

(c) "False" means wholly or partially untrue or deceptive.

(d) "Health care benefit" means the right under a contract or a certificate or policy of insurance to have a payment made by a health care corporation or health care insurer for a specified health care service.

(e) "Health care corporation" means a nonprofit 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; a hospital service corporation, medical care corporation, or a consolidated hospital service corporation and medical care corporation incorporated or reincorporated under Act No. 350 of the Public Acts of 1980, being sections 550.1101 to 550.1704 of the Michigan Compiled Laws, or incorporated or consolidated under Act No. 108 or 109 of the Public Acts of 1939; or a health maintenance organization licensed under Act No. 368 of the Public Acts of 1978, being sections 333.1101 to 333.25211 of the Michigan Compiled Laws.

(f) "Health care insurer" means any insurance company authorized to provide health insurance in this state or any legal entity which is self-insured and providing health care benefits to its employees.

(g) "Health facility or agency" means a health facility or agency, as defined in section 20106 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.20106 of the Michigan Compiled Laws.

(h) "Knowing" and "knowingly" means that a person is in possession of facts under which he or she is aware or should be aware of the nature of his or her conduct and that his or her conduct is substantially certain to cause the payment of a health care benefit. "Knowing" or "knowingly" does not include conduct which is an error or mistake unless the person's course of conduct indicates a systematic or persistent tendency to cause inaccuracies to be present.

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

**History:** 1984, Act 323, Eff. Mar. 29, 1985

## **752.1003 False claims, statements, or representations; violation as separate offense; liability of health facility or agency; concealing or failing to disclose certain events; violation of section as felony; penalty; section inapplicable to application for coverage.**

### **Sec. 3.**

(1) A person shall not make or present or cause to be made or presented to a health care corporation or health care insurer a claim for payment of health care benefits knowing the claim to be false.

(2) A person shall not make or present or cause to be made or presented to a health care corporation or health care insurer a claim for payment of health care benefits which he or she knows falsely represents that the goods or services were medically necessary in accordance with professionally accepted standards. Each claim which violates this subsection shall constitute a separate offense. A health facility or agency shall not be liable under this subsection unless the health facility or agency, pursuant to a conspiracy, combination, or collusion with a physician or other provider, falsely represents the medical necessity of the particular goods or services for which the claim was made.

(3) A person shall not knowingly make or cause to be made a false statement or false representation of a material fact to a health care corporation or health care insurer for use in determining rights to health care benefits. Each claim which violates this subsection shall constitute a separate violation.

(4) A person who, having knowledge of the occurrence of an event affecting his or her initial or continued right to receive a health care benefit, or the continued right of any other person on whose behalf he or she has applied for or is receiving a health care benefit, shall not conceal or fail to disclose that event with intent to obtain a health care

benefit to which the person or any other person is not entitled, or to obtain a health care benefit in an amount greater than that to which the person or any other person is entitled.

(5) A person who 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 \$50,000.00, or both.

(6) This section does not apply to statements made on an application for coverage under a certificate or policy of insurance issued by a health care insurer or coverage under a certificate issued by a health care corporation.

**History:** 1984, Act 323, Eff. Mar. 29, 1985

#### **752.1004 Kickbacks, bribes, or rebates as felony; penalty.**

##### **Sec. 4.**

A person who solicits, offers, pays, or receives a kickback or bribe in connection with the furnishing of goods or services for which payment is or may be made in whole or in part by a health care corporation or health care insurer, or who receives a rebate of a fee or charge for referring an individual to another person for the furnishing of health care benefits, is guilty of a felony, punishable by imprisonment for not more than 4 years, or by a fine of not more than \$50,000.00, or both.

**History:** 1984, Act 323, Eff. Mar. 29, 1985

#### **752.1004a Violation of MCL 752.1004; exceptions; cost-sharing requirements not altered; definitions.**

##### **Sec. 4a.**

(1) Neither of the following violates section 4:

(a) A rebate or discount from a drug manufacturer or from a company that licenses or distributes the drugs of a drug manufacturer to or for the benefit of a consumer for the administration or the consumer's use of a drug manufactured or licensed or distributed by the drug manufacturer or company, including for consumer cost-sharing requirements for the administration or drug. As used in this subdivision, "administration" means injection, infusion, or similar means of application.

(b) A monetary payment from a drug manufacturer to a consumer, the consumer's health professional, or a vendor that has a contract with the drug manufacturer, for a health care service that the prescribing information of a qualified drug requires or recommends for initiating drug therapy.

(2) This section does not alter any copayment, deductible, coinsurance, or other cost-sharing requirements under a contract, certificate, or policy issued by a health care corporation or health care insurer.

(3) As used in this section:

(a) "Consumer's health professional" means a health professional who did not prescribe the qualified drug or who does not have a financial relationship to the health professional who prescribed the qualified drug.

(b) "Health care service" means any of the following:

(i) Monitoring for bradycardia or atrioventricular conduction.

(ii) Monitoring blood pressure.

(iii) An electrocardiogram.

(iv) A cardiac evaluation by a physician.

(v) A complete blood count test.

(vi) A liver function test.

(vii) An eye examination for macular edema.

(viii) A pulmonary function test, if clinically indicated.

(ix) A vaccination.

(x) An additional service included in the prescribing information by the United States Food and Drug Administration.

(c) "Health professional" means an individual who is licensed or otherwise authorized to engage in a health profession under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(d) "Physician" means an individual licensed or otherwise authorized to engage in the practice of medicine under

part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17097, or to engage in the practice of osteopathic medicine and surgery under part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.

(e) "Qualified drug" means a drug that has a United States Food and Drug Administration approved indication to treat multiple sclerosis.

**History:** Add. 2004, Act 411, Imd. Eff. Nov. 29, 2004 ;-- Am. 2016, Act 80, Eff. July 11, 2016 ;-- Am. 2020, Act 317, Imd. Eff. Dec. 29, 2020

**752.1004b Rebate or discount from medical supply or device manufacturer; use; effect.**

Sec. 4b.

(1) A rebate or discount from a medical supply or device manufacturer or from a company that licenses or distributes medical supplies or devices for a medical supply or device manufacturer to a consumer for that consumer's use of a medical supply or device manufactured or licensed or distributed by that manufacturer or company does not violate section 4.

(2) This section does not alter any copayment, deductible, coinsurance, or other cost-sharing requirements under a contract, certificate, or policy issued by a health care corporation or health care insurer.

**History:** Add. 2004, Act 410, Imd. Eff. Nov. 29, 2004

**752.1005 Agreement, combination, or conspiracy to defraud as felony; penalty.**

Sec. 5.

(1) A person shall not enter into an agreement, combination, or conspiracy to defraud a health care corporation or health care insurer by making or presenting, or aiding another to make or present a false claim for payment of health care benefits.

(2) A person who violates this section is guilty of a felony, punishable by imprisonment for not more than 10 years, or by a fine of not more than \$50,000.00, or both.

**History:** 1984, Act 323, Eff. Mar. 29, 1985

**752.1006 Second or subsequent offense; penalty.**

Sec. 6.

A person who is convicted of a second or subsequent offense under this act may be sentenced to imprisonment for a term of not more than twice the term otherwise authorized, or fined an amount not more than twice the amount otherwise authorized, or both.

**History:** 1984, Act 323, Eff. Mar. 29, 1985

**752.1007 Evidence; rebuttable presumptions.**

Sec. 7.

(1) In a prosecution under this act, it shall not be necessary to show that the person had knowledge of similar acts having been performed in the past by a person acting on the person's behalf, nor to show that the person had actual notice that the acts by the persons acting on the person's behalf occurred, to establish the fact that a false statement or representation was knowingly made.

(2) It shall be a rebuttable presumption that a person knowingly made a claim for a health care benefit if the person's actual, facsimile, stamped, typewritten, or similar signature is used on the form required for the making of the claim for the health care benefit.

(3) If a claim for a health care benefit is made by means of computer billing tapes or other electronic means, it shall be a rebuttable presumption that the person knowingly made the claim if the person has advised the health care corporation or health care insurer in writing that claims for health care benefits will be submitted by use of computer billing tapes or other electronic means.

(4) In any civil or criminal action under this act the certificate of an authorized agent of the health care corporation or health care insurer setting forth that documentary material or any compilation thereof is an authentic record or compilation of records of the health care corporation or health care insurer shall create a rebuttable presumption that the record or compilation is authentic.

**History:** 1984, Act 323, Eff. Mar. 29, 1985

**752.1008 Investigation; service and contents of written demands; action to enforce demand; serving notice of hearing and copy of pleadings; orders; confidentiality; duties of peace officers appointed as investigators.**

Sec. 8.

(1) The attorney general, an assistant attorney general on behalf of the attorney general, or a prosecuting attorney may conduct an investigation of an alleged violation of this act.

(2) If the attorney general or a prosecuting attorney has reasonable cause to believe that a person has information or is in possession, custody, or control of any document or other tangible object relevant to an investigation for violation of this act, the attorney general or a prosecuting attorney, after notifying the attorney general, may serve upon the person, before bringing any criminal action, a written demand to appear and be examined under oath, and to produce the document or object for inspection and copying. The demand shall include all of the following:

- (a) Be served upon the person in the manner required for service of process in this state.
- (b) Describe the nature of the conduct constituting the violation under investigation.
- (c) Describe the document or object with sufficient definiteness to permit it to be fairly identified.
- (d) Contain a copy of any written interrogatories.

(e) Prescribe a reasonable time at which the person must appear to testify, within which to answer the written interrogatories, and within which the document or object must be produced, and advise the person that objections to or reasons for not complying with the demand may be filed with the attorney general or prosecuting attorney making the demand, on or before that time.

(f) Specify a place for the taking of testimony or for production and designate the person who shall be custodian of the document or object.

- (g) Contain a copy of subsection (3).

(3) If a person objects to or otherwise fails to comply with the written demand served upon him or her under subsection (2), the attorney general or a prosecuting attorney, after notifying or at the request of the attorney general, may file in the circuit court of the county in which the person resides or in which the person maintains a principal place of business within this state an action to enforce the demand. Notice of hearing the action and a copy of all pleadings shall be served upon the person, who may appear in opposition. If the court finds that the demand is proper, that there is reasonable cause to believe that there may have been or is presently occurring a violation of this act, and that the information sought or document or object demanded is relevant to the investigation, the court shall order the person to comply with the demand, subject to modification the court may prescribe. Upon motion by the person and for good cause shown, the court may make any further order in the proceedings that justice requires to protect the person from unreasonable annoyance, embarrassment, oppression, burden, or expense.

(4) Except as required by federal law, any procedure, testimony taken, or material produced shall be kept confidential by the attorney general or a prosecuting attorney before bringing an action against a person under this act for the violation under investigation, unless confidentiality is waived by the person being investigated and the person who has testified, answered interrogatories, or produced material, or disclosure is authorized by the court.

(5) For purposes of enforcing this act, the attorney general may appoint investigators who shall be peace officers and whose duties include, but are not limited to, the following:

(a) To execute and serve search warrants, arrest warrants, subpoenas, administrative warrants, and summonses issued under the authority of the state.

(b) To seize property pursuant to the laws of this state.

(c) Investigators appointed by the attorney general may exercise the powers provided in this subsection when working in conjunction with local law enforcement agencies or the department of state police.

**History:** 1984, Act 323, Eff. Mar. 29, 1985

#### **752.1008a Person not subject to civil liability.**

Sec. 8a.

If acting in good faith, a person is not subject to civil liability for providing information, investigating, or cooperating with an investigation or examination under this act.

**History:** Add. 1996, Act 229, Imd. Eff. June 5, 1996

#### **752.1009 Liability of person to health care corporation or health care insurer.**

Sec. 9.

A person who receives a health care benefit or payment from a health care corporation or health care insurer which the person knows that he or she is not entitled to receive or be paid; or a person who knowingly presents or causes to be presented a claim which contains a false statement, shall be liable to the health care corporation or health care insurer for the full amount of the benefit or payment made.

**History:** 1984, Act 323, Eff. Mar. 29, 1985

#### **752.1010 Restitution.**

Sec. 10.

Any person convicted of a violation of section 3, 4, or 5, in addition to any fines or sentences imposed, including any order of probation, may be ordered to make restitution to a health care corporation or health care insurer.

**History:** 1984, Act 323, Eff. Mar. 29, 1985

#### **752.1011 Prosecution or civil action for violation of other laws.**

Sec. 11.

This act shall not be construed to prohibit or limit a prosecution of or civil action against a person for the violation of any other law of this state.

**History:** 1984, Act 323, Eff. Mar. 29, 1985

## **ASSISTANCE TO SUICIDE**

### **Act 270 of 1992**

AN act to prohibit certain acts pertaining to the assistance of suicide; to provide for the development of legislative recommendations concerning certain issues related to death and dying, including assistance of suicide; to create the Michigan commission on death and dying; to prescribe its membership, powers, and duties; to prescribe penalties; and to repeal certain parts of this act on a specific date.

**History:** 1992, Act 270, Eff. Mar. 31, 1993 ;-- Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993

*The People of the State of Michigan enact:*

#### **752.1021 Legislative findings; effective date of section.**

##### **Sec. 1.**

(1) The legislature finds that the voluntary self-termination of human life, with or without assistance, raises serious ethical and public health questions in the state. To study this problem and to develop recommendations for legislation, the Michigan commission on death and dying is created.

(2) This section shall take effect February 25, 1993.

**History:** 1992, Act 270, Eff. Mar. 31, 1993 ;-- Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993

#### **752.1022 Definitions; effective date of section.**

##### **Sec. 2.**

(1) As used in this act:

(a) "Commission" means the Michigan commission on death and dying created in section 3.

(b) "Legislative council" means the legislative council established under section 15 of article IV of the state constitution of 1963.

(c) "Licensed health care professional" means any of the following:

(i) A physician or physician's assistant licensed or authorized to practice under part 170 or 175 of the public health code, being sections 333.17001 to 333.17088 and 333.17501 to 333.17556 of the Michigan Compiled Laws.

(ii) A registered nurse or licensed practical nurse licensed or authorized to practice under part 172 of the public health code, being sections 333.17201 to 333.17242 of the Michigan Compiled Laws.

(iii) A pharmacist licensed under part 177 of the public health code, being sections 333.17701 to 333.17770 of the Michigan Compiled Laws.

(d) "Patient" means a person who engages in an act of voluntary self-termination.

(e) "Public health code" means Act No. 368 of the Public Acts of 1978, being sections 333.1101 to 333.25211 of the Michigan Compiled Laws.

(f) "The voluntary self-termination of life", "voluntary self-termination", and "self-termination" mean conduct by which a person expresses the specific intent to end, and attempts to cause the end of, his or her life, but do not include the administration of medication or medical treatment intended by a person to relieve his or her pain or discomfort, unless that administration is also independently and specifically intended by the person to cause the end of his or her life.

(2) This section shall take effect February 25, 1993.

**History:** 1992, Act 270, Eff. Mar. 31, 1993 ;-- Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993

**752.1023 Michigan commission on death and dying; creation; nomination and appointment of members; alternates; quorum; rules governing proceedings; notice; deliberations; death or resignation of member; effective date of section.**

**Sec. 3.**

(1) The Michigan commission on death and dying is created within the legislative council. In accordance with its own rules and procedures, each of the following may nominate 2 persons for appointment to the commission:

- (a) American association of retired persons.
- (b) American civil liberties union of Michigan.
- (c) Citizens for better care.
- (d) Health care association of Michigan.
- (e) Hemlock of Michigan.
- (f) Michigan association for retarded citizens.
- (g) Michigan association of osteopathic physicians and surgeons.
- (h) Michigan association of suicidology.
- (i) Michigan council on independent living.
- (j) Michigan head injury survivor's council.
- (k) Michigan hospice organization.
- (l) Michigan hospital association.
- (m) Michigan nonprofit homes association.
- (n) Michigan nurses association.
- (o) Michigan psychiatric society.
- (p) Michigan psychological association.
- (q) Michigan senior advocates council.
- (r) Michigan state medical society.
- (s) National association of social workers, Michigan division.
- (t) Right to life of Michigan, inc.
- (u) State bar of Michigan.
- (v) Prosecuting attorneys association of Michigan.

(2) Within 30 days after receiving notice of the nominations of an organization listed in subsection (1), the chairperson and alternate chairperson of the legislative council shall select from the nominees of that organization a member and a person to serve as that member's alternate on the commission.

(3) A majority of commission members appointed constitute a quorum.

(4) The commission shall convene its first meeting within 90 days after the effective date of this act, at which the members shall elect from members of the commission a chairperson, vice-chairperson, and secretary. The commission shall establish rules governing commission proceedings. These rules shall provide alternate members with full rights of participation, other than voting, in all commission proceedings.

(5) Following its first meeting, the commission shall meet as often as necessary to fulfill its duties under this act. Either the chairperson or a majority of the appointed members may call a meeting upon 7 days' written notice to the commission members.

(6) In its deliberations, the commission shall provide for substantial involvement from the academic, health care, legal, and religious communities, as well as from members of the general public.

(7) Upon the death or resignation of a commission member, the person serving as his or her alternate shall succeed that member. If a member of the commission is absent from a commission meeting, the person serving as his or her alternate shall act as a member of the commission at that meeting.

(8) This section shall take effect February 25, 1993.

**History:** 1992, Act 270, Eff. Mar. 31, 1993 ;-- Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993

**752.1024 Development and submission of recommendations to legislature; effective date of section.**

Sec. 4.

(1) Within 15 months after the effective date of this act, the commission shall develop and submit to the legislature recommendations as to legislation concerning the voluntary self-termination of life. In developing these recommendations, the commission shall consider each of the following:

- (a) Current data concerning voluntary self-termination, including each of the following:
  - (i) The current self-termination rate in the state, compared with historical levels.
  - (ii) The causes of voluntary self-termination, and in particular each of the following:
    - (A) The role of alcohol and other drugs.
    - (B) The role of age, disease, and disability.
  - (iii) Past and current Michigan law concerning voluntary self-termination, including the status of persons who assist a patient's self-termination, and in particular the effect of any relevant law enacted during the 86th Legislature.
  - (iv) The laws of other states concerning voluntary self-termination, and in particular the effect of those laws on the rate of self-termination.
- (b) The proper aims of legislation affecting voluntary self-termination, including each of the following:
  - (i) The existence of a societal consensus in the state on the morality of the voluntary self-termination of life, including the morality of other persons assisting a patient's self-termination.
  - (ii) The significance of each of the following:
    - (A) The attitudes of a patient's family regarding his or her voluntary self-termination.
    - (B) The cause of a patient's act of self-termination, including apprehension or existence of physical pain, disease, or disability.
  - (iii) Whether to differentiate among the following causes of voluntary self-termination:
    - (A) Physical conditions, as distinguished from psychological conditions.
    - (B) Physical conditions that will inevitably cause death, as distinguished from physical conditions with which a patient may survive indefinitely.
  - (C) Withdrawing or withholding medical treatment, as distinguished from administering medication, if both are in furtherance of a process of voluntary self-termination.
- (iv) With respect to how the law should treat a person who assists a patient's voluntary self-termination, whether to differentiate based on the following:
  - (A) The nature of the assistance, including inaction; noncausal facilitation; information transmission; encouragement; providing the physical means of self-termination; active participation without immediate risk to the person assisting; and active participation that incurs immediate risk to the person assisting, such as suicide pacts.
  - (B) The motive of the person assisting, including compassion, fear for his or her own safety, and fear for the safety of the patient.
  - (C) The patient's awareness of his or her true condition, including the possibility of mistake or deception.
- (v) The relevance of each of the following:
  - (A) The legal status of suicide.
  - (B) The legal status of living wills.
  - (C) The right to execute a durable power of attorney for health care, as provided in section 496 of the revised probate code, Act No. 642 of the Public Acts of 1978, being section 700.496 of the Michigan Compiled Laws.
  - (D) The common-law right of a competent adult to refuse medical care or treatment.
  - (E) Constitutional rights of free speech, free exercise of religion, and privacy, and constitutional prohibitions on the establishment of religion.
- (c) The most efficient method of preventing voluntary self-terminations, to the extent prevention is a proper aim of legislation. In particular, the commission shall consider each of the following:
  - (i) The costs of various methods of preventing voluntary self-terminations, including the use of any of the following:
    - (A) Public health measures, such as crisis therapy and suicide counseling services.
    - (B) Tort law.
    - (C) Criminal law, including the desirability of criminalizing suicide or attempted suicide.
    - (D) Civil sanctions, including the denial of inheritance and requirements of community service and mandatory counseling.
  - (ii) The likely effect of any of the methods listed in subparagraph (i) on the self-termination rate, and in particular the probability that a particular method might cause the self-termination rate to increase.
  - (iii) The impact of any of the methods listed in subparagraph (i) on the practice of medicine and the availability of health care in the state.
  - (iv) Whether current state law is adequate to address the question of voluntary self-termination in the state.
  - (d) Appropriate guidelines and safeguards regarding voluntary self-terminations the law should allow, including the advisability of allowing, in limited cases, the administering of medication in furtherance of a process of voluntary self-termination.

(e) Any other factors the commission considers necessary in developing recommendations for legislation concerning the voluntary self-termination of life.

(2) This section shall take effect February 25, 1993.

**History:** 1992, Act 270, Eff. Mar. 31, 1993 ;-- Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993

#### **752.1025 Conducting business of commission; effective date of section.**

Sec. 5.

(1) The business of the commission shall be conducted in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(2) This section shall take effect February 25, 1993.

**History:** 1992, Act 270, Eff. Mar. 31, 1993 ;-- Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993

#### **752.1026 Availability of writings to the public; effective date of section.**

Sec. 6.

(1) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) This section shall take effect February 25, 1993.

**History:** 1992, Act 270, Eff. Mar. 31, 1993 ;-- Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993

\*\*\*\*\* 752.1027 THIS SECTION IS REPEALED EFFECTIVE 6 MONTHS AFTER THE DATE THE COMMISSION MAKES ITS RECOMMENDATIONS TO THE LEGISLATURE PURSUANT TO SECTION 4: See (5) of 752.1027 \*\*\*\*\*

#### **752.1027 Prohibited acts; violation; penalties; applicability of subsection (1); exceptions; effective date of section; repeal of section.**

Sec. 7.

(1) A person who has knowledge that another person intends to commit or attempt to commit suicide and who intentionally does either of the following is guilty of criminal assistance to suicide, a felony punishable by imprisonment for not more than 4 years or by a fine of not more than \$2,000.00, or both:

(a) Provides the physical means by which the other person attempts or commits suicide.

(b) Participates in a physical act by which the other person attempts or commits suicide.

(2) Subsection (1) shall not apply to withholding or withdrawing medical treatment.

(3) Subsection (1) does not apply to prescribing, dispensing, or administering medications or procedures if the intent is to relieve pain or discomfort and not to cause death, even if the medication or procedure may hasten or increase the risk of death.

(4) This section shall take effect February 25, 1993.

(5) This section is repealed effective 6 months after the date the commission makes its recommendations to the legislature pursuant to section 4.

**History:** 1992, Act 270, Eff. Mar. 31, 1993 ;-- Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993

**Constitutionality:** In a memorandum opinion, the Michigan Supreme Court held that 1) the assisted suicide provisions of MCL 752.1027 of the Michigan Compiled Laws were validly enacted and do not violate the Title-Object Clause of the Michigan Constitution, and 2) the US Constitution does not prohibit a state from imposing criminal penalties for assisting a suicide. *Michigan v Kevorkian*, 445 Mich 917; 521 NW2d 4 (1994).

## **HUMAN TRAFFICKING NOTIFICATION ACT**

### **Act 62 of 2016**

AN ACT to create the human trafficking notification act; to require the posting of certain notices relating to human trafficking; to prescribe the powers and duties of certain state and local departments and agencies; and to provide a remedy.

**History:** 2016, Act 62, Eff. July 4, 2016

*The People of the State of Michigan enact:*

#### **752.1031 Short title.**

Sec. 1.

This act shall be known and may be cited as the "human trafficking notification act".

**History:** 2016, Act 62, Eff. July 4, 2016

#### **752.1032 Definitions.**

Sec. 2.

As used in this act:

(a) "Adult entertainment establishment" means either of the following:

(i) An adult entertainment establishment that holds a topless activity permit under section 916(3) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1916.

(ii) Any other retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

(b) "Department" means the department of licensing and regulatory affairs.

(c) "Human trafficking notice" means the notice described in section 5.

**History:** 2016, Act 62, Eff. July 4, 2016

#### **752.1033 Posting of human trafficking notice on certain premises.**

Sec. 3.

(1) The department of transportation shall post a human trafficking notice on the premises of each rest stop and welcome facility in this state in the manner described in this act and as required by the department under this act.

(2) Each local unit of government that operates a rest stop or welcome facility shall post a human trafficking

notice on the premises of that rest stop or welcome facility in the manner described in this act and as required by the department under this act.

(3) Each local unit of government, or authority allowed by law, that provides bus or rail transportation services to the public shall post a human trafficking notice on the premises of any station that provides those services in the manner described in this act and as required by the department under this act.

(4) Each of the following shall post a human trafficking notice on its premises in the manner described in this act and as required by the department under this act:

(a) Any entity that owns property that has been found by a court to constitute a public nuisance due to acts of prostitution or human trafficking being conducted on the property or arising out of the ownership or use of the property.

(b) An adult entertainment establishment.

(c) Public airports.

**History:** 2016, Act 62, Eff. July 4, 2016

#### **752.1034 Posting of human trafficking notice; manner.**

##### **Sec. 4.**

The human trafficking notice required under this act shall be posted in a conspicuous manner clearly visible to the public and employees within each facility operated by an entity described in section 3 that is open to use by the public.

**History:** 2016, Act 62, Eff. July 4, 2016

#### **752.1035 Posting of human trafficking notice; requirements.**

##### **Sec. 5.**

A human trafficking notice required to be posted under this act shall meet the following requirements:

(a) Be of a design and style to provide proper notice under this act.

(b) Be no smaller than 8-1/2 inches by 11 inches and contain the following notice in boldfaced type of not less than a 14-point font determined appropriate by the department:

"If you or someone you know is being forced to engage in any activity and cannot leave, whether the activity is commercial sex, housework, farm work, or any other activity, please contact the National Human Trafficking Resource Center hotline at 1-888-373-7888 or text 233733 to access help and services. The victims of human trafficking are protected under U.S. laws and the laws of this state."

(c) Be of durable construction.

(d) Be posted in the English and Spanish languages and in any other language determined appropriate by the department in consultation with the attorney general. The department may require the posting of other languages under this subdivision in specified areas of this state due to the languages used within those specified areas.

**History:** 2016, Act 62, Eff. July 4, 2016

#### **752.1036 Notice; sample.**

##### **Sec. 6.**

The department shall post on its departmental website a sample of the notice described in section 5, which shall

be available for downloading for purposes of this act.

**History:** 2016, Act 62, Eff. July 4, 2016

**752.1037 Written notice of requirements.**

Sec. 7.

The department shall provide each entity described in section 3 with written notice of the requirements of this act.

**History:** 2016, Act 62, Eff. July 4, 2016

**752.1038 Applicability of act; appropriation of funds.**

Sec. 8.

This act does not apply unless sufficient funds are appropriated to the department to allow it to carry out the duties required under this act.

**History:** 2016, Act 62, Eff. July 4, 2016

**752.1039 Failure of entity to comply with act; notice; fine**

Sec. 9.

(1) If the department determines that an entity described in section 3 has failed to comply with the notice requirements of this act, the department shall notify the entity that it is in violation of this act and provide the entity with 48 hours to come into compliance with this act.

(2) If the entity under subsection (1) is subsequently notified a second time of a failure to comply with the requirements of this act within 1 year of the previous notification, the entity may be fined not more than \$250.00. If the same entity is notified a third time of a failure to comply with the requirements of this act within 1 year of the previous 2 notifications, the entity may be fined not more than \$500.00.

**History:** 2016, Act 62, Eff. July 4, 2016

**752.1040 Rules.**

Sec. 10.

The department may promulgate rules to implement this act.

**History:** 2016, Act 62, Eff. July 4, 2016

## UNAUTHORIZED RECORDINGS

### Act 210 of 1994

AN ACT to prohibit the unauthorized duplication of certain recordings; to prohibit the sale, rental, distribution, transportation, and possession of these recordings; to require certain labeling; and to prescribe penalties and remedies.

**History:** 1994, Act 210, Eff. Jan. 1, 1995

*The People of the State of Michigan enact:*

#### **752.1051 Definitions.**

##### Sec. 1.

As used in this act:

(a) "Owner" means a person who owns the sounds fixed in a master recording on which sound is recorded and from which the transferred sounds are directly or indirectly derived, or the person who owns the rights to record or authorize the recording of a live performance.

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

(c) "Recording" means the tangible medium upon which sounds or images are recorded or otherwise stored. Recording includes any original phonograph record, disc, wire, tape, audio or video cassette, film, or other medium now known or later developed on which sounds or images are or can be recorded or otherwise stored, or any copy or reproduction that duplicates, in whole or in part, the original.

**History:** 1994, Act 210, Eff. Jan. 1, 1995

#### **752.1052 Prohibited conduct; applicability of subsection (1)(a) and (b).**

##### Sec. 2.

(1) A person shall not directly or indirectly do any of the following:

(a) Transfer a live performance onto a recording without the consent of the owner for commercial advantage or private financial gain.

(b) Transfer the sounds on a recording onto another recording without the consent of the owner for commercial advantage or private financial gain. This subdivision does not apply to either of the following:

(i) A sound recording initially fixed after February 15, 1972.

(ii) A person engaged in radio or television broadcasting or cablecasting who transfers or causes to be transferred sounds intended for, or in connection with, a broadcast or cable transmission or related use.

(c) Sell, rent, distribute, transport, or possess for the purpose of selling, renting, distributing, or transporting, or any combination thereof, a recording with knowledge that the recording was manufactured in violation of subdivision (a) or (b).

(d) Sell, rent, distribute, transport, or possess for the purpose of selling, renting, distributing, or transporting, or any combination thereof, a recording with knowledge that the recording is in violation of section 3.

(2) Subsection (1)(a) and (b) shall not apply to recordings that are transferred solely for the personal use of the person transferring the recording and the person does not derive any compensation from the transfer.

**History:** 1994, Act 210, Eff. Jan. 1, 1995

**752.1053 Name and address of manufacturer; "manufacturer" defined.**

Sec. 3.

Each recording sold, rented, or distributed, or possessed for the purpose of sale, rental, or distribution, shall contain in a prominent place on its cover, box, jacket, or label the true name and address of the manufacturer. As used in this section, "manufacturer" does not include the manufacturer of the cartridge or casing.

**History:** 1994, Act 210, Eff. Jan. 1, 1995

**752.1054 Violation as misdemeanor or felony; penalties.**

Sec. 4.

(1) A person who violates this act by committing an offense involving less than 7 audiovisual recordings or less than 100 sound recordings during a 180-day period is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than \$25,000.00, or both.

(2) A person who violates this act by committing a subsequent offense or an offense involving 7 or more audiovisual recordings or 100 or more sound recordings during a 180-day period is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than \$250,000.00, or both.

**History:** 1994, Act 210, Eff. Jan. 1, 1995

**752.1055 Order to destroy recordings.**

Sec. 5.

If a person is convicted of an offense under this act, the court shall order all recordings on which the conviction is based to be destroyed.

**History:** 1994, Act 210, Eff. Jan. 1, 1995

**752.1056 Forfeiture.**

Sec. 6.

All recordings and equipment used or attempted to be used in the manufacture of the recordings are subject to forfeiture in the same manner as provided in sections 4701 to 4709 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.4701 to 600.4709 of the Michigan Compiled Laws, except that the court shall order the following:

(a) That all recordings forfeited be destroyed.

(b) That any equipment forfeited be offered at no cost to a public elementary or secondary school, an institution of higher education, or a library.

**History:** 1994, Act 210, Eff. Jan. 1, 1995

**752.1057 Effective date.**

Sec. 7.

This act shall take effect January 1, 1995.

**History:** 1994, Act 210, Eff. Jan. 1, 1995

**MICHIGAN CHILDREN'S PROTECTION REGISTRY ACT**

**Act 241 of 2004**

AN ACT to establish the computer crime of sending certain electronic messages to minors; to create a child protection registry; to provide notice of contact points to which a minor has access; to prescribe the powers and duties of certain state agencies and officials; to create a fund and provide for fees; and to provide for penalties and remedies.

**History:** 2004, Act 241, Imd. Eff. July 21, 2004

*The People of the State of Michigan enact:*

**752.1061 Short title; legislative intent.**

Sec. 1.

- (1) This act shall be known and may be cited as the "Michigan children's protection registry act".
- (2) The intent of this act is to provide safeguards to prevent certain messages regarding tobacco, alcohol, pornography, gambling, illegal drugs, and other illegal products from reaching the minor children of this state.

**History:** 2004, Act 241, Imd. Eff. July 21, 2004 ;-- Am. 2005, Act 298, Imd. Eff. Dec. 21, 2005

**Compiler's Notes:** For transfer of child protection registry from department of licensing and regulatory affairs to Michigan department of state, see E.R.O. No. 2014-1, compiled at MCL 752.1091.

**752.1062 Definitions.**

Sec. 2.

As used in this act:

- (a) "Contact point" means any electronic identification to which messages can be sent, including any of the following:
  - (i) An instant message identity.
  - (ii) A wireless telephone, a personal digital assistant, a pager number, or any other similar wireless communication device.
  - (iii) A facsimile number.
  - (iv) An electronic mail address.
  - (v) Other electronic addresses subject to rules promulgated under this act by the department.
- (b) "Department" means the department of labor and economic growth.
- (c) "Internet domain name" means a globally unique, hierarchical reference to an internet host or service,

assigned through centralized internet authorities, comprising a series of character strings separated by periods, with the right-most string specifying the top of the hierarchy.

- (d) "Minor" means an individual under the age of 18 years.
- (e) "Person" means an individual, corporation, association, partnership, or any other legal entity.
- (f) "Registry" means the child protection registry created under section 3.

**History:** 2004, Act 241, Imd. Eff. July 21, 2004

**Compiler's Notes:** For transfer of child protection registry from department of licensing and regulatory affairs to Michigan department of state, see E.R.O. No. 2014-1, compiled at MCL 752.1091.

**752.1063 Child protection registry; establishment and operation; registration of contact points; duration; expiration; revocation; renewal; registration by schools and other institutions serving minor children; compliance mechanism; fees; operational date.**

**Sec. 3.**

(1) The department shall establish and operate, or contract with a qualified third party to establish and operate, the child protection registry. The department or a third party administrator shall establish procedures, to the extent possible, to prevent the use or disclosure of protected contact points as required under section 6. If the department elects to contract with a third party, the department shall give due consideration to any person located in this state.

(2) A parent, guardian, individual, or an entity under subsection (4) who is responsible for a contact point to which a minor may have access may register that contact point with the department under rules promulgated by the department under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department shall establish procedures to ensure that a registrant meets the requirements of this subsection.

(3) A registration under this section shall be for not more than 3 years. If the contact point is established for a specific minor, the registration expires the year the minor turns 18 years of age. A registration can be revoked or renewed by the registrant upon notification to the department.

(4) Schools and other institutions or entities primarily serving minor children may register 1 or more contact points with the department. An entity under this subsection may make 1 registration for all contact points of the entity, and the registration may include the entity's internet domain name under rules promulgated by the department under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(5) No fee or charge shall be assessed or incurred by a person registering a contact point under this act.

(6) The department shall establish a mechanism for senders to verify compliance with the registry.

(7) A person desiring to send a message described in section 5 shall pay the department a fee for access to the mechanism required under subsection (6). The fee required under this subsection shall be set by the department. The fee shall not exceed 3 cents and shall be based on the number of contact points checked against the registry for each time a contact point is checked. The mechanism to verify compliance under subsection (6) and the fee required under this subsection shall be established under rules promulgated by the department under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(8) The fees collected under this act shall be credited to the following:

(a) Eighty-five percent of the fees to the fund created under section 4.

(b) Not less than 15% of the fees to the attorney general to cover the costs of investigating, enforcing, and defending this act and section 5a of 1979 PA 53, MCL 752.795a. The department may reimburse the attorney general from the fund created under section 4 for any costs incurred under this subdivision that exceed the fees credited under this subdivision.

(9) The registry shall be fully operational not later than July 1, 2005.

**History:** 2004, Act 241, Imd. Eff. July 21, 2004 ;-- Am. 2005, Act 206, Imd. Eff. Nov. 14, 2005

**Compiler's Notes:** For transfer of child protection registry from department of licensing and regulatory affairs to Michigan department of state, see E.R.O. No. 2014-1, compiled at MCL 752.1091.

**752.1064 Children's protection registry fund; creation; expenditures; reversion to general fund.**

**Sec. 4.**

(1) The children's protection registry fund is created as a separate fund in the state treasury and administered by the department. Money shall be deposited into the fund as required by section 3(8)(a).

(2) The department shall expend money from the fund only for the purposes of administering this act and for the investigation, enforcement, and defense of this act and section 5a of 1979 PA 53, MCL 752.795a.

(3) All money, including interest and earnings, in the fund at the end of the fiscal year shall remain in the fund and not revert to the general fund.

**History:** 2004, Act 241, Imd. Eff. July 21, 2004

**Compiler's Notes:** For transfer of child protection registry from department of licensing and regulatory affairs to Michigan department of state, see E.R.O. No. 2014-1, compiled at MCL 752.1091.

## **752.1065 Prohibited conduct; exceptions; third-party security audits.**

### **Sec. 5.**

(1) Except as otherwise provided under this section, a person shall not send, cause to be sent, or conspire with a third party to send a message to a contact point that has been registered for more than 30 calendar days with the department if the primary purpose of the message is to, directly or indirectly, advertise or otherwise link to a message that advertises a product or service that a minor is prohibited by law from purchasing, viewing, possessing, participating in, or otherwise receiving.

(2) A person desiring to send a message described in subsection (1) shall use the mechanism created under section 3(6) to ensure compliance with this act.

(3) The consent of a minor or third party to receive the message is not a defense to a violation of this section.

(4) A person does not violate this act because the person is an intermediary between the sender and recipient in the transmission of an electronic message that violates this act or unknowingly provides transmission of electronic messages over the person's computer network or facilities that violate this act.

(5) The sending of a message described in subsection (1) is prohibited only if it is otherwise a crime for the minor to purchase, view, possess, participate in, or otherwise receive the product or service.

(6) The sending of a message described in subsection (1) is not prohibited if prior to sending the message the sender has obtained from an age-verified adult an affirmative statement of consent to receive the message at an adult designated contact point. To comply with this subsection, the sender shall do all of the following:

(a) Verify that the person making the affirmative statement is of legal age by inspecting in a face-to-face transaction a valid government-issued photo identification with proof of age.

(b) Obtain a written record stating that the recipient has consented to receive the type of messages described in subsection (1). The consent form required under this subdivision shall be signed by the recipient. The sender shall retain the consent form required under this subdivision and make it available for verification as may be required under subdivision (d).

(c) All messages allowed under this subsection shall include notice to the recipient that he or she may rescind their consent and provide an opportunity for the recipient to opt out of receiving any future messages.

(d) Notify the department that the sender intends to send messages as allowed under this subsection. The department may implement procedures to verify that the sender is in compliance with this subsection.

(7) Within 90 days of the effective date of the amendatory act that added this subsection, the department, or the vendor providing registry services for the department, shall conduct a third-party audit to certify the security of the registry. Follow-up third-party security audits on the registry systems shall be conducted at least annually. If the third-party security audit determines that the registry does not meet or exceed the industry standard for high security systems, then the registry shall be suspended until the security systems are determined to meet this standard.

**History:** 2004, Act 241, Imd. Eff. July 21, 2004 ;-- Am. 2005, Act 298, Imd. Eff. Dec. 21, 2005

**Compiler's Notes:** For transfer of child protection registry from department of licensing and regulatory affairs to Michigan department of state, see E.R.O. No. 2014-1, compiled at MCL 752.1091.

## **752.1066 Release of information; prohibitions; register not subject to freedom of information act.**

Sec. 6.

(1) A person shall not release to another person information concerning persons or provide access to contact points or other information contained on the registry except as provided by this act.

(2) A person shall not sell or use the registry for any reason other than to meet the requirements of this act.

(3) A person shall not access or attempt to access the registry except as provided by this act.

(4) The registry created under this act is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** 2004, Act 241, Imd. Eff. July 21, 2004

**Compiler's Notes:** For transfer of child protection registry from department of licensing and regulatory affairs to Michigan department of state, see E.R.O. No. 2014-1, compiled at MCL 752.1091.

**752.1067 Violation of act; penalties.**

Sec. 7.

A violation of this act is a computer crime and a violation of section 5a of 1979 PA 53, MCL 752.795a, subject to the penalties provided for under sections 6a and 6b of 1979 PA 53, MCL 752.796a and 752.796b.

**History:** 2004, Act 241, Imd. Eff. July 21, 2004

**Compiler's Notes:** For transfer of child protection registry from department of licensing and regulatory affairs to Michigan department of state, see E.R.O. No. 2014-1, compiled at MCL 752.1091.

**752.1068 Civil action; attorney fees; remedies; investigation of business transactions; effective date of section.**

Sec. 8.

(1) A civil action based on the computer crime established under this act may be brought by an authorized individual or the registrant of the contact point on behalf of a minor who has received a message in violation of this act.

(2) A civil action based on the computer crime established under this act may be brought by a person through whose facilities the message was transmitted in violation of this act.

(3) A civil action based on the computer crime established under this act may be brought by the attorney general against a person who has violated this act.

(4) In each action brought under this section, the prevailing party may be awarded reasonable attorney fees if the action is found by the court to be frivolous.

(5) A person bringing an action under this section may recover 1 of the following:

(a) Actual damages, including reasonable attorney fees.

(b) In lieu of actual damages, recover the lesser of the following:

(i) \$5,000.00 per each message received by a recipient or transmitted.

(ii) \$250,000.00 for each day that the violation occurs.

(6) If the attorney general has reason to believe that a person has violated this act, the attorney general may investigate the business transactions of that person. The attorney general may require that person to appear, at a reasonable time and place, to give information under oath and to produce such documents and evidence necessary to determine whether the person is in compliance with the requirements of this act.

(7) Any civil penalties collected by the attorney general under this section shall be credited to the attorney general for the costs of investigating, enforcing, and defending this act and section 5a of 1979 PA 53, MCL 752.795a.

(8) This section takes effect July 1, 2005.

**History:** 2004, Act 241, Eff. July 1, 2005

**Compiler's Notes:** For transfer of child protection registry from department of licensing and regulatory affairs to Michigan department of

## **ORGANIZED RETAIL CRIME ACT**

### **Act 455 of 2012**

AN ACT to prohibit organized retail crime and to provide penalties for that crime; to provide for forfeiture of and restitution for stolen retail merchandise in certain circumstances; to create the organized retail crime advisory board and to prescribe its powers and duties; and to provide for the administration of this act.

**History:** 2012, Act 455, Eff. Mar. 31, 2013

*The People of the State of Michigan enact:*

#### **752.1081 Short title.**

##### **Sec. 1.**

This act shall be known and may be cited as the "organized retail crime act".

**History:** 2012, Act 455, Eff. Mar. 31, 2013

#### **752.1082 Legislative intent.**

##### **Sec. 2.**

It is the intent of the legislature to protect the public health, safety, and welfare of the citizens of the state by recognizing the negative impact of persons who engage in planned, organized, and methodical theft of retail merchandise for resale in unregulated retail commerce, including, but not limited to, medications, infant formula, and pharmaceutical items; the potential use of the proceeds of the sale of that merchandise to support other crimes and criminal enterprises and the nature, extent, and impact of those activities upon commerce and public safety; and to take appropriate actions to prevent and punish those who engage in those activities.

**History:** 2012, Act 455, Eff. Mar. 31, 2013

#### **752.1083 Definitions.**

##### **Sec. 3.**

As used in this act:

- (a) "Board" means the organized retail crime advisory board created under section 6.
- (b) "Department" means the department of state police.
- (c) "Organized retail crime" means the theft of retail merchandise from a retail merchant with the intent or purpose of reselling, distributing, or otherwise reentering the retail merchandise in commerce, including the transfer of the stolen retail merchandise to another retail merchant or to any other person personally, through the mail, or through any electronic medium, including the internet, in exchange for anything of value.
- (d) "Person" means an individual, sole proprietorship, partnership, cooperative, association, corporation, limited

liability company, personal representative, receiver, trustee, assignee, or other entity.

(e) "Retail merchant" means any person that is in the business of selling retail merchandise at retail.

(f) "Retail merchandise" means any new article, product, commodity, item, or component intended to be sold in retail commerce.

**History:** 2012, Act 455, Eff. Mar. 31, 2013

**752.1084 Prohibited conduct; violation as felony; penalty; forfeiture; restitution; reimbursement; representation that property stolen, embezzled, or converted.**

**Sec. 4.**

(1) A person is guilty of organized retail crime when that person, alone or in association with another person, does any of the following:

(a) Knowingly commits an organized retail crime.

(b) Organizes, supervises, finances, or otherwise manages or assists another person in committing an organized retail crime.

(c) Removes, destroys, deactivates, or knowingly evades any component of an antishoplifting or inventory control device to prevent the activation of that device or to facilitate another person in committing an organized retail crime.

(d) Conspires with another person to commit an organized retail crime.

(e) Receives, purchases, or possesses retail merchandise for sale or resale knowing or believing the retail merchandise to be stolen from a retail merchant.

(f) Uses any artifice, instrument, container, device, or other article to facilitate the commission of an organized retail crime act.

(g) Knowingly causes a fire exit alarm to sound or otherwise activate, or deactivates or prevents a fire exit alarm from sounding, in the commission of an organized retail crime or to facilitate the commission of an organized retail crime by another person.

(h) Knowingly purchases a wireless telecommunication device using fraudulent credit, knowingly procures a wireless telecommunications service agreement with the intent to defraud another person or to breach that agreement, or uses another person to obtain a wireless telecommunications service agreement with the intent to defraud another person or to breach that agreement.

(2) Organized retail crime is a felony punishable by imprisonment for not more than 5 years or a fine of \$5,000.00, or both.

(3) If the true owner of stolen retail merchandise cannot be identified, the retail merchandise, and any proceeds from the sale or resale of that merchandise, is subject to forfeiture to the state for use by the board in the performance of its duties. The court shall order forfeiture of the retail merchandise in the manner and upon terms and conditions as determined by the court to be appropriate.

(4) The court shall order a person who is found guilty of organized retail crime to make restitution to any retail merchant victim in the manner provided in the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, and to reimburse the governmental entity for its expenses incurred as a result of the violation of this act in the manner provided in section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f.

(5) It is not a defense to a charge under this section that the property was not stolen, embezzled, or converted property at the time of the violation if the property was explicitly represented to the accused person as being stolen, embezzled, or converted property.

**History:** 2012, Act 455, Eff. Mar. 31, 2013

**752.1085 Violation arising out of same criminal transaction.**

**Sec. 5.**

This act does not prohibit a person from being charged with, convicted of, or sentenced for any violation of law

arising out of the same criminal transaction that violates this act.

**History:** 2012, Act 455, Eff. Mar. 31, 2013

#### **752.1086 Organized retail crime advisory board.**

##### **Sec. 6.**

(1) There is created within the department of state police an organized retail crime advisory board. The board shall consist of the following members:

(a) One member who is a county prosecuting attorney or an assistant county prosecuting attorney.  
(b) One member who is a representative of a city, village, or township police department or of a county sheriff department.

(c) The state attorney general or his or her designated representative.

(d) One member who is recommended by the Michigan retailers association.

(e) One member who is a member of the general public.

(f) The director of the department of state police or his or her designated representative.

(2) All members of the board, other than the attorney general and the director of the department of state police, shall be appointed by the governor by and with the advice and consent of the senate for terms of 4 years.

(3) A vacancy on the board shall be filled in the same manner as the original appointment for the remainder of any unexpired term.

(4) The duties of the board shall be to develop a database of organized retail crimes, to compile annual statistics on organized retail crime acts, to recommend actions to be taken by the department and law enforcement to further combat organized retail crime, and to submit an annual report to the director of the department on the effectiveness of this act in reducing organized retail crime.

(5) The director of the department of state police or his or her designee shall serve as chairperson of the board. The board shall meet not less often than 4 times each year. Special meetings may be called by the chairperson, or upon written request of not fewer than 3 board members. Meetings shall be held at a location designated by the chairperson.

(6) The board shall keep minutes of its proceedings. A record of board action and business shall be made and maintained.

(7) The board members shall not be compensated for their service but may be reimbursed for their actual and reasonable expenses.

(8) The board shall not retain a staff.

(9) The business performed by the board shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(10) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** 2012, Act 455, Eff. Mar. 31, 2013

#### **752.1087 Administration of act.**

##### **Sec. 7.**

This act shall be administered by the director of the department.

**History:** 2012, Act 455, Eff. Mar. 31, 2013

## EXECUTIVE REORGANIZATION ORDER

### E.R.O. No. 2014-1

**History:** 2014, E.R.O. No. 2014-1, Eff. Apr. 22, 2014

**Compiler's Notes:** Executive Reorganization Order No. 2014-1 was promulgated February 20, 2014 as Executive Order No. 2014-5, Eff. Apr. 22, 2014.

#### **752.1091 Transfer of child protection registry from department of licensing and regulatory affairs to Michigan department of state.**

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power in the Governor; and

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, there is a continued need to reorganize the functions among state Departments for efficient administration; and

WHEREAS, programs, agencies, and commissions should be placed among the principal departments on a consistent, logical basis in order to ensure the most efficient use of public dollars and more streamlined services; and

WHEREAS, the Michigan Children's Protection Registry Act, 2004 PA 241, MCL 752.1061 et seq., was created to establish the computer crime of sending certain electronic messages to minors; create a child protection registry; to provide notice of contact points to which a minor has access; to prescribe the powers and duties of certain state agencies and officials; to create a fund and provide for fees; and to provide for penalties and remedies;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan, order the following:

##### **I. TRANSFER OF CHILD PROTECTION REGISTRY**

A. The Child Protection Registry is transferred from the Department of Licensing and Regulatory Affairs ("LARA") to the Michigan Department of State. All the authority, powers, duties, functions and responsibilities granted to LARA or its predecessor agencies pursuant to the Michigan Children's Protection Registry Act, 2004 PA 241, MCL 752.1061 et seq., as amended, are transferred to the Michigan Department of State.

B. Any and all statutory or other references to LARA or its predecessor agencies related to the Child Protection Registry not inconsistent with this Order shall be deemed references to the Michigan Department of State.

C. All records and property necessary to execute the activities, powers, duties, functions, and responsibilities of the Michigan Children's Protection Registry Act are transferred from LARA to the Michigan Department of State.

D. All unexpended balances of appropriations, allocations, and other funds used, held, employed, or to be made available to LARA for the activities, powers, duties, functions, and responsibilities transferred by this Order are transferred to the Michigan Department of State.

##### **II. MISCELLANEOUS**

A. All rules, orders, contracts, plans, and agreements relating to any function exercised pursuant to the Michigan Children's Protection Registry Act transferred from LARA to the Michigan Department of State by this Order that were lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, or rescinded.

B. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity transferred from LARA to the Michigan Department of State by this Order shall not abate by reason of the taking effect of this Order. Any lawfully commenced suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements of Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order shall be effective 60 days after the filing of this Order.

**History:** 2014, E.R.O. No. 2014-1, Eff. Apr. 22, 2014

**Compiler's Notes:** Executive Reorganization Order No. 2014-1 was promulgated February 20, 2014 as Executive Order No. 2014-5, Eff. Apr. 22, 2014.