

Legislative Analysis



ELDER AND VULNERABLE ADULT PROTECTIONS

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Senate Bill 922 (S-1) as reported from House committee
Sponsor: Sen. Veronica Klinefelt

Analysis available at
<http://www.legislature.mi.gov>

Senate Bill 923 as reported
Sponsor: Sen. Sarah Anthony

Senate Bill 924 as reported
Sponsor: Sen. Kevin Hertel

Senate Bill 925 as reported
Sponsor: Sen. Jeff Irwin

House Committee: Families, Children and Seniors
Senate Committee: Civil Rights, Judiciary, and Public Safety
Complete to 12-19-24

SUMMARY:

Senate Bills 922 to 925 would establish elder and vulnerable adult personal protection orders (PPOs) for protection against neglect and abuse; add embezzlement from a vulnerable adult to the crimes that can be charged as racketeering; add provisions addressing such embezzlement that took place both before and after the vulnerable adult's death; and allow counties to create confidential, multidisciplinary teams to address elder and vulnerable adult abuse.

Senate Bill 922 would amend the Revised Judicature Act to allow a person to petition the circuit court to obtain to enter an *elder and vulnerable adult personal protection order* if they are 60 years old or older, are a *vulnerable adult*, or have a *developmental disability*. The person could do so by commencing an independent action, joining a claim to an action, or filing a motion in an action in which the petitioner (the person requesting the PPO) and the respondent (the person the PPO would apply to) are parties.

Elder and vulnerable adult protective order would mean an injunctive order restraining or enjoining activity and individuals that is issued by the family division of the circuit court or a probate court [although, as noted above, the petition to obtain the order could be filed only in circuit court].

Vulnerable adult would mean one or more of the following:

- An individual 18 or older who, because of age, developmental disability, mental illness, or physical disability, requires supervision or personal care or lacks the personal and social skills required to live independently.
- A person 18 or older who is unable to protect themselves from abuse, neglect, or exploitation because of a mental or physical impairment or advanced age and who is suspected of being abused, neglected, or exploited.¹
- A child who is placed in an adult foster care family home or an adult foster care small group home under the child care licensing act, 1973 PA 116.

¹ For the definitions of "abuse," "neglect," and "exploitation" that pertain to this provision, see MCL 400.11:
<https://www.legislature.mi.gov/documents/mcl/pdf/mcl-400-11.pdf>

Developmental disability would mean, for an individual who is older than five years of age, a severe, chronic condition that meets all of the following:

- The condition is attributable to a mental or physical impairment or a combination of mental and physical impairments.
- The condition is manifested before the individual is 22 years old.
- The condition is likely to continue indefinitely.
- The condition results in substantial functional limitations in three or more of the following areas of major life activity:
 - Self-care.
 - Receptive and expressive language.
 - Learning.
 - Mobility.
 - Self-direction.
 - Capacity for independent living.
 - Economic self-sufficiency.
- The condition reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

For a child up to and including age five, ***developmental disability*** would mean a substantial developmental delay or a specific congenital or acquired condition with a high probability of resulting in developmental disability as defined above if services are not provided.

Elder and vulnerable adult PPO

An elder and vulnerable adult PPO could restrain an individual from doing one or more of the following:

- Entering into or refusing to leave premises.
- Assaulting, attacking, beating, molesting, or wounding the petitioner.
- Threatening to kill, physically injure, or sexually assault the petitioner.
- Purchasing or possessing a firearm.
- Engaging in stalking or aggravated stalking as prohibited by the Michigan Penal Code, unless the individual decision-making authority under an order of another court that requires contact with the petitioner.
- Any of the following with intent to cause the petitioner mental distress or exert control over the petitioner with respect to an animal in which the petitioner has an ownership interest:²
 - Injuring, killing, torturing, or neglecting the animal, or threatening to do so.³
 - Removing the animal from the petitioner’s possession.

² A petitioner would have an ownership interest in an animal if the petitioner has a right of property in the animal; the petitioner keeps or harbors the animal; the animal is in the petitioner’s care; or the petitioner allows the animal to remain on or about premises the petitioner occupies.

³ However, the order would not prohibit the lawful killing or other use of an animal, such as fishing; hunting, trapping, or wildlife control regulated under the Natural Resources and Environmental Protection Act (NREPA); horse racing; the operation of a zoological park or aquarium; pest or rodent control regulated under NREPA; farming or a generally accepted animal husbandry or farming practice involving livestock; scientific research under 1969 PA 224; scientific research or the lawful killing of an animal under sections 2226, 2671, 2676, and 7333 of the Public Health Code; or the lawful killing or use of an animal under the Animal Industry Act.

- Retaining or obtaining possession of the animal.
- Destroying, or threatening to destroy, the petitioner’s owned or leased real or personal property.
- Exercising decision-making authority over the petitioner, unless granted under an order of another court.
- Any other specific act or conduct that imposes or interferes with the petitioner’s personal liberty, safety, or health or causes a reasonable apprehension of violence.

In addition, an elder and vulnerable adult PPO could include any relief the court considers necessary to prevent or remedy the *financial exploitation* of the petitioner, including any of the following:

- Prohibiting the respondent from accessing, exercising or transferring control over the petitioner’s funds, benefits, property, resources, belongings, or assets.
- Requiring the respondent to submit paperwork necessary to remove themselves as the petitioner’s representative payee within a time period set by the court.
- After an evidentiary hearing, requiring the respondent to return custody or control of personal property to the petitioner.
- After an evidentiary hearing, awarding actual damages or attorney fees.
- Requiring the respondent to furnish a bond for a reasonable period of time, set by the court, in the amount necessary to safeguard money, benefits, property, resources, belongings, or assets that are in dispute.
- Allowing the petitioner to file a notice lis pendens⁴ for a reasonable period of time, set by the court, regarding any property that is in dispute.

Financial exploitation would mean the use of fraud, deceit, misrepresentation, coercion, or unjust enrichment to obtain or use, or attempt to obtain or use, money or property to directly or indirectly benefit the respondent, or the respondent’s improper leveraging of a caregiver relationship for financial gain.

Petition for order

A petitioner could omit their address of residence from documents filed with the court under the bill. If they do so, they would have to provide the court with a mailing address.

The petitioner would have to notify the court of the respondent’s occupation before an elder and vulnerable adult PPO is issued if the petitioner knows that the respondent is licensed to carry a concealed weapon and is any of the following:

- Required to carry a weapon as a condition of employment.
- A police officer licensed or certified under the Michigan commission on law enforcement standards act.
- A sheriff or deputy sheriff.
- A member of the state police.
- A local corrections officer.
- A Department of Corrections employee.

⁴ A notice lis pendens, also known as a notice of pendency of action, is a written notice that a lawsuit has been filed concerning real estate, usually related to disputes concerning title or ownership.

- A federal law enforcement officer who carries a firearm during the normal course of their employment.

Requirements for issuance

The court shall have to issue an elder and vulnerable adult PPO if the court determines that there is *reasonable cause* (see below) to believe that the individual to be restrained or enjoined may commit one or more of the following acts:

- Entering onto or refusing to leave the premises.⁵
- Assaulting, attacking, beating, molesting, or wounding the petitioner.
- Threatening to kill, physically injure, or sexually assault the petitioner.
- Purchasing or possessing a firearm.
- Engaging in stalking or aggravated stalking.
- Any of the following with the intent to cause the petitioner mental distress or to exert control over the petitioner with respect to an animal the petitioner owns in whole or part:
 - Injuring, killing, torturing, neglecting, or threatening to injure, kill, torture, or neglect the animal.
 - Removing the animal from the petitioner's possession.
 - Retaining or obtaining possession of the animal.
 - The actual or threatened withholding or prevention of the petitioner's access to goods, services, or basic amenities required to avoid physical harm or mental suffering, including safe and sanitary household goods, food, medical or mental health care or treatment, medication, transportation, law enforcement, communication technologies, and individuals who provide formal or informal supports to the petitioner.
 - Destroying or threatening to destroy the petitioner's owned or leased property, including either real or personal property.
 - If the respondent resides with the petitioner, using a pattern of derogatory or inappropriate names, phrases or profanity, threats of forced change of residence or *institutionalization*, ridicule, harassment, coercion, threats, cursing, intimidation, or inappropriate sexual comments or conduct of such a nature as to cause emotional distress to the petitioner.
 - Engaging in financial exploitation of the petitioner.
 - Any other specific act or conduct that imposes on or interferes with the petitioner's personal liberty, safety, or health, or that causes a reasonable apprehension of violence.

Institutionalization would mean being removed from a community residence and placed or kept in a residential institution, such as a licensed long-term care facility or nursing home, adult foster care, a home for the aged, a mental health or drug treatment facility, or a hospital or unlicensed care facility.

In determining whether *reasonable cause* exists, the court would have to consider all of the following:

- Testimony, documents, or other evidence offered in support of the request for an elder and vulnerable adult PPO.

⁵ A court could not restrain or enjoin this conduct if the individual to be restrained or enjoined has a property interest in the premises and the petitioner has no property interest in the premises.

- Whether the individual to be restrained or enjoined has previously committed or threatened to commit one or more of the acts listed above.
- Evidence of the respondent's commission of other acts of domestic violence, sexual assault, or financial exploitation; such evidence would be admissible for any relevant purpose.

A court could not refuse to issue an elder and vulnerable adult PPO solely because of the absence of any of the following:

- A police report.
- A medical report.
- A report or finding of an administrative agency.
- Physical signs of abuse or violence.
- Physical access to the petitioner or the petitioner's residence.

A court that refuses to grant an elder and vulnerable adult PPO would have to state immediately in writing the specific reasons it refused to do so. If a hearing is held, the court would also have to immediately state on the record the specific reasons it refuses to issue an elder and vulnerable adult PPO.

If the respondent is less than 18 years of age, issuance of an elder and vulnerable adult PPO would be subject to the juvenile code.

A court could not issue an elder and vulnerable adult PPO if the respondent is the unemancipated minor child of the petitioner.

A court could not issue a mutual elder and vulnerable adult PPO.

A court could not issue correlative separate elder and vulnerable adult PPOs unless both parties have properly petitioned the court as described above.

Order contents

An elder and vulnerable adult PPO would have to include all of the following, to the extent practicable in a single form:

- A statement that the PPO has been entered to restrain, enjoin, or compel conduct listed in the order and that violation of the PPO will subject the respondent to one or more of the following:
 - If the respondent is 18 or older, immediate arrest and the civil and criminal contempt powers of the court and, if they are found guilty of criminal contempt, imprisonment for up to 93 days and a fine of up to \$500.
 - If the respondent is under 18, immediate apprehension or being taken into custody and the dispositional alternatives listed in section 18 of the juvenile code (Chapter XIIA of the Probate Code).
 - If the respondent violates the PPO in a jurisdiction other than Michigan, the enforcement procedures and penalties of the state, tribe, or United States territory where the violation occurred.
- A statement that the PPO is effective and immediately enforceable anywhere in this state after being signed by a judge and that, upon service, a PPO also may be enforced by another state, an Indian tribe, or a territory of the United States.

- A statement listing the type or types of conduct enjoined or compelled.
- An expiration date stated clearly on the face of the order.
- A statement that the PPO is enforceable anywhere in this state by any law enforcement agency.
- The name of the law enforcement agency designated by the court to enter the PPO into the Law Enforcement Information Network (LEIN).
- For ex parte orders,⁶ a statement that the individual restrained or enjoined may file a motion to modify or rescind the PPO and request a hearing within 14 days after they have been served or received actual notice of the order and that motion forms and filing instructions are available from the clerk of the court.
- A statement providing the respondent a designated period of time to collect personal belongings from the petitioner's premises only when accompanied by law enforcement and with reasonable prior notice to the petitioner.
- Notice of any monetary award to the petitioner that provides an exact amount for actual damages, costs, and reasonable attorney fees, a date on which payment is due, the manner in which payment may be made, and notice that failure to pay may result in a money judgment against the respondent.

The issuing court also would have to designate a law enforcement agency to be responsible for entering the elder and vulnerable adult PPO into LEIN.

Effectiveness and enforceability

An elder and vulnerable adult PPO would be effective and immediately enforceable anywhere in Michigan after being signed by a judge. An elder and vulnerable adult PPO would be immediately enforceable anywhere in Michigan by any law enforcement agency that has received a true copy of the order, is shown a copy of it, or has verified its existence on LEIN.

Upon service, an elder and vulnerable adult PPO also could be enforced by another state, an Indian tribe, or a territory of the United States.

An elder and vulnerable adult PPO would also be enforceable under section 15b of Chapter IV of the Code of Criminal Procedure (which provides for arrest without warrant for PPO violations) and Chapter 17 of the Revised Judicature Act (which deals with contempt of court).

Service or actual notice

An elder and vulnerable adult PPO would have to be served personally or by registered or certified mail, return receipt requested, delivery restricted to the addressee at the last known address or addresses of the individual restrained or enjoined or by any other manner allowed by the Michigan court rules. If the respondent is under 18, their parent, guardian, or custodian also would have to be served personally or by registered or certified mail, return receipt requested, delivery restricted to the addressee at the last known address or addresses of the parent, guardian, or custodian. A proof of service or proof of oral notice would have to be filed with the clerk of the court issuing the order.

⁶ An ex parte order is a court order issued before the other party (the respondent) has notice or an opportunity to respond.

If the individual restrained or enjoined has not been served, a law enforcement officer or clerk of the court who knows that a PPO exists could, at any time, serve them with a true copy of the order or advise them of the existence of the order, the specific conduct enjoined, the penalties for violating the order, and where they may obtain a copy of the order.

In addition, if the individual restrained or enjoined has not been served, a law enforcement agency or officer responding to a call alleging a violation of an elder and vulnerable adult PPO would have to serve the individual restrained or enjoined with a true copy of the order or advise them of the existence of the order, the specific conduct enjoined, the penalties for violating the order, and where they may obtain a copy of the order. The officer would have enforce the order and immediately enter or cause to be entered into LEIN that the individual restrained or enjoined has actual notice of the order. The officer also would have to file a proof of service or proof of oral notice with the clerk of the court.

If the individual restrained or enjoined has not received notice of the order, they would have to be given an opportunity to comply with the order before the law enforcement officer makes a custodial arrest for violation of the order. The failure to immediately comply with the order would be grounds for an immediate custodial arrest.⁷

Duties of the clerk

The clerk of the court that issues an elder and vulnerable adult PPO would have to do all of the following immediately upon its issuance and without requiring a proof of service on the individual restrained or enjoined:

- File a true copy of the elder and vulnerable adult PPO with the law enforcement agency designated by the court in the order.
- Provide the petitioner with two or more true copies of the elder and vulnerable adult PPO.
- If the respondent is identified in the pleadings as a law enforcement officer, notify the officer's employing law enforcement agency, if known, about the existence of the elder and vulnerable adult PPO.
- If the respondent is identified in the pleadings as a local corrections officer, notify the officer's employing local agency, if known, about the existence of the elder and vulnerable adult PPO.
- If the respondent is identified in the pleadings as a Department of Corrections employee, notify the department of corrections about the existence of the elder and vulnerable adult PPO.
- If the elder and vulnerable adult PPO prohibits the respondent from purchasing or possessing a firearm, notify the county clerk of the respondent's county of residence about the existence and contents of the order.

The clerk would have to inform the petitioner that the petitioner may take a true copy of the elder and vulnerable adult PPO to the law enforcement agency designated by the court to be immediately entered into LEIN.

⁷ These provisions would not preclude an arrest without a warrant as allowed under the Code of Criminal Procedure or a proceeding to take a juvenile into custody without a court order under the juvenile code.

If either of the following occur, the clerk would have to immediately notify the law enforcement agency designated by the court in the order:

- The clerk court receives proof that the individual restrained or enjoined has been served.
- The order is rescinded, modified, or extended by court order.

Law enforcement agency designated by the court (LEIN)

The law enforcement agency that receives a true copy of an elder and vulnerable adult PPO because it was designated by the court in the order would have to enter the order into LEIN immediately and without requiring proof of service. If the law enforcement agency receives information from the clerk of the court that the order has been served or that it has been rescinded, modified, or extended by court order, the agency would have to enter the information or cause it to be entered into LEIN.

Ex parte orders

A court would have to issue an ex parte elder and vulnerable adult PPO without written or oral notice to the individual restrained or enjoined or the individual's attorney if it clearly appears from specific facts shown by a verified complaint, written motion, or affidavit that immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before a PPO can be issued.

An ex parte elder and vulnerable adult PPO issued would be valid for at least 182 days. The individual restrained or enjoined could file a motion to modify or rescind the order and request a hearing under the Michigan Court Rules. A motion to modify or rescind the order would have to be filed not later than 14 days after the order is served or after the individual restrained or enjoined has received actual notice of the PPO unless good cause is shown for filing the motion after that time.

The court would have to schedule a hearing on a motion to modify or rescind the ex parte elder and vulnerable adult PPO no later than 14 days after the motion is filed. If the respondent is a person who must carry a firearm in their employment and the order prohibits them from purchasing or possessing a firearm, the court would have to schedule a hearing on the motion to modify or rescind the ex parte order no later than five days after the motion is filed.

Penalties

An individual 18 or older who refuses or fails to comply with an elder and vulnerable adult PPO would be subject to the criminal contempt powers of the court and, if found guilty, would have to be imprisoned for up to 93 days and could be fined up to \$500. An individual under age 18 who refuses or fails to comply with an elder and vulnerable adult PPO would be subject to the dispositional alternatives listed in section 18 of the juvenile code. The criminal penalty provided under these provisions could be imposed in addition to any penalty that may be imposed for another criminal offense arising from the same conduct.

An individual who knowingly and intentionally makes a false statement to the court in support of their petition for an elder and vulnerable adult PPO would be subject to the contempt powers of the court.

Other provisions

All of the following would apply to an elder and vulnerable adult PPO:

- If the petitioner is a ward or protected individual in a guardianship or conservatorship proceeding, the issuing court, after issuing the protection order, would have to immediately transfer the action to the probate court with continuing jurisdiction over the guardianship or conservatorship proceeding and inform that court of the transfer.
- After a transfer described above, any responsive proceeding would have to be commenced in the court the action was transferred to. If a responsive proceeding is commenced erroneously in the issuing court, that court would have to transfer the responsive proceeding to the other court upon learning of the error and inform that court of the transfer.
- A court that orders a transfer described above would have to send all pertinent records to the receiving court. The clerk would have to prepare the court records for transfer in accordance with the transfer order and Michigan trial court records management standards. The records would have to be sent to the receiving court by a secure method within one business day after the date of the transfer order.
- If a respondent in an elder and vulnerable adult PPO action is currently serving as a court-appointed fiduciary for the petitioner under a prior valid guardianship or conservatorship order, the respondent would have to notify the court with jurisdiction over the guardianship or conservatorship proceeding within seven days after being served with an elder and vulnerable adult PPO.

A finding that a petitioner is a vulnerable adult for purposes of obtaining a PPO under the bill would not give rise to an inference that they require a guardianship or conservatorship when considering a petition for a guardianship or conservatorship under the Estates and Protected Individuals Code or for a guardianship under the Mental Health Code.

Proposed MCL 600.2950p

Senate Bill 923 would amend the Michigan Penal Code to include embezzlement from a vulnerable adult as a crime that could constitute *racketeering* under the code.

Currently, *racketeering* is defined in the code as committing, attempting to commit, conspiring to commit, or aiding or abetting, soliciting, coercing, or intimidating a person to commit an offense for financial gain by obtaining money, property, or any other thing of value involving any of certain listed violations. Among numerous offenses, racketeering includes violations involving bribery, welfare fraud, animal fighting, money laundering, or identity theft. It also includes felony violations of several provisions of the code that prohibit embezzlement.

Senate Bill 923 would add embezzlement from a vulnerable adult to this list of offenses. Specifically, it would add misdemeanor and felony violations of section 174a of the code,⁸ which prohibits a person from obtaining or using, through fraud, deceit, misrepresentation, coercion, or unjust enrichment, a vulnerable adult's money or property to directly or indirectly benefit that person knowing or having reason to know the vulnerable adult is a vulnerable adult. (Vulnerable adult has the same definition here as it does for Senate Bill 922.)

⁸ <https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-750-174A> Senate Bill 924 would amend this section of law.

Section 159i of the code contains the following prohibitions:

- A person employed by, or associated with, an **enterprise** shall not knowingly conduct or participate in the affairs of an enterprise directly or indirectly through a **pattern of racketeering activity**.
- A person shall not knowingly acquire or maintain an interest in or control of an enterprise or real or personal property used or intended for use in the operation of an enterprise, directly or indirectly, through a **pattern of racketeering activity**.
- A person who has knowingly received any proceeds derived directly or indirectly from a **pattern of racketeering activity** shall not directly or indirectly use or invest any part of proceeds, or any proceeds derived from the use or investment of any of proceeds, in the establishment or operation of an enterprise, or the acquisition of any title to, or a right, interest, or equity in, real or personal property used or intended for use in the operation of an enterprise.
- A person shall not conspire or attempt to violate the above provisions.

Pattern of racketeering activity means at least two incidents of **racketeering** to which all of the following characteristics apply:

- The incidents have the same or a substantially similar purpose, result, participant, victim, or method of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated acts.
- The incidents amount to or pose a threat of continued criminal activity.
- At least one of the incidents occurred in Michigan on or after April 1, 1996, and the last of the incidents occurred within 10 years after the commission of any prior incident, excluding any period of imprisonment served by a person engaging in the racketeering activity.

Enterprise includes an individual, sole proprietorship, partnership, corporation, limited liability company, trust, union, association, governmental unit, or other legal entity or a group of persons associated in fact although not a legal entity. Enterprise includes illicit as well as licit enterprises.

A violation of section 159i is a felony punishable by imprisonment for up to 20 years or a fine of up to \$100,000, or both. In addition, a court can impose numerous other sanctions, including among other things the payment of court costs, the payment of the costs of the investigation and prosecution, restitution, forfeiture of certain personal and real property, and the loss of any license granted to the enterprise.

MCL 750.159g

Senate Bill 924 would amend section 174a of the Michigan Penal Code, which prohibits embezzlement from a vulnerable adult. More specifically, the section prohibits a person from obtaining or using, through fraud, deceit, misrepresentation, coercion, or unjust enrichment, a vulnerable adult's money or property to directly or indirectly benefit that person knowing or having reason to know the vulnerable adult is a vulnerable adult. (Vulnerable adult has the same definition here as it does for Senate Bill 922.)

Senate Bill 924 would provide that a person who commits a violation while a vulnerable adult is alive and continues to do so after that vulnerable adult is dead is subject to prosecution for

the acts committed both during the vulnerable adult's life and after their death. In addition, in such a case, the values of money or property used or obtained during the vulnerable adult's life and after their death could be aggregated to determine the total value of money or personal property used or obtained. Those monetary values determine the penalties for the offense.

MCL 750.174a

Senate Bill 925 would create a new act to allow a county or region (a group of contiguous counties) to create a *vulnerable adult multidisciplinary team*. The county or region would be encouraged to ensure that the team includes public, private, and *represented professionals* generally authorized to represent their agency.

Vulnerable adult multidisciplinary team would be defined to mean two or more individuals qualified to provide a broad range of services related to the needs of vulnerable adults whose purpose is to further one or more of the following goals:

- Prevent, investigate, or prosecute the abuse and financial exploitation offenses of vulnerable adults as permitted under the state law.
- Coordinate medical, social, and legal services for vulnerable adults and their families.
- Develop programs for the detection and prevention of the abuse, neglect, and exploitation of vulnerable adults.
- Promote community awareness and recommend actions to address key issues faced by vulnerable adults.
- Disseminate information to the public regarding all of the following:
 - The abuse, neglect, and exploitation of vulnerable adults.
 - Strategies and methods for preventing the abuse, neglect, and exploitation of vulnerable adults.
 - Treatment options for vulnerable adults.

Represented professionals could include, for example, any of the following:

- A law enforcement officer.
- A representative of Adult Protective Services in the Department of Health and Human Services (DHHS).
- A representative of the attorney general.
- The prosecuting attorney or a designated assistant county prosecutor of a county that created the team.
- A representative of the long-term care ombudsman program.
- A representative of DHHS or a local health department.
- A representative of the Area Agencies on Aging Association of Michigan.
- A health care professional who has experience or training in the prevention of the abuse of elderly or vulnerable adults.
- A representative of Michigan Legal Services.
- A county public administrator.
- A representative of a community mental health services program.
- An individual with expertise in finance or forensic accounting.

A vulnerable adult multidisciplinary team could share information among parties in performing its duties. All of the following would apply to a vulnerable adult multidisciplinary team:

- It would be bound by confidentiality and would have to execute a sworn statement attesting this obligation.
- It could use information or records it produces or obtains only in the exercise of its proper functions.
- It would have to disclose the information or records to the following entities only if the disclosure is not prohibited under other state laws:
 - Adult Protective Services.
 - The long-term care ombudsman program.
 - The attorney general.
 - The county prosecutor of a county that created the team.
 - A law enforcement officer.
 - Another member of the team.
- The information and records it produces or obtains would not be subject to disclosure under the Freedom of Information Act (FOIA).
- It would not be a public body under the Open Meetings Act, and its meetings would not be subject to that act.

FISCAL IMPACT:

Senate Bill 922 would have an indeterminate fiscal impact on local court systems that would depend on how provisions of the bill affected court caseloads and related administrative costs. It is likely that court caseloads will increase as a result of adding a new type of court hearing for protection orders for elder and vulnerable adults, but it is not possible to determine to what extent caseloads will increase.

Senate Bill 923 would not have a direct fiscal impact on the state or on local units of government. The bill revises the definition of “racketeering” to include a person who obtains or uses or attempts to obtain or use a vulnerable adult’s money or property through fraud, deceit, misrepresentation, coercion, or unjust enrichment.

Senate Bill 924 would have an indeterminate fiscal impact on the state and on local units of government. Under the bill, a person that uses or obtains or attempts to use or obtain money or property from a vulnerable adult while alive and continues these activities when the vulnerable adult is deceased would be subject to prosecution for the acts committed. Violations could be either misdemeanors or felonies, depending on the value of money or property used or obtained, or attempted to be used or obtained and the number of prior convictions. New felony convictions, the state could experience an increase in costs related to state prisons and state probation supervision. In fiscal year 2023, the average cost of prison incarceration in a state facility was roughly \$48,700 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$5,400 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. It is difficult to project the

actual fiscal impact to courts due to variables such as law enforcement practices, prosecutorial practices, judicial discretion, case types, and complexity of cases. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

Senate Bill 925 would not have a fiscal impact on the state but could potentially have a fiscal impact on local units of government. Local units that choose to create a county or regional vulnerable adult multidisciplinary team would most likely incur costs.

POSITIONS:

Representatives of the following entities testified in support of the bills (12-10-24):

- Department of Attorney General
- Arc Michigan
- Area Agency on Aging

Representatives of the following entities testified in support of Senate Bill 922 (12-10-24):

- Crime Victims Legal Assistance Project
- Michigan Elder Justice Initiative
- Michigan Poverty Law Program

The following entities indicated support for the bills (12-10-24):

- AARP
- Disability Rights Michigan
- Elder Law and Disability Rights Section of the State Bar of Michigan
- Michigan Bankers
- Michigan County Social Services Association
- Michigan Sheriffs' Association
- PAAM (Prosecuting Attorneys Association of Michigan)

Legislative Analyst: E. Best
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.