

**SUBSTITUTE FOR  
HOUSE BILL NO. 4474**

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 147b (MCL 750.147b), as added by 1988 PA 371.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 147b. (1) A person is guilty of ~~ethnic intimidation~~<sup>a</sup>  
2 **hate crime** if that person maliciously ~~, and with specific intent to~~  
3 ~~intimidate or harass another person because of that person's race,~~  
4 ~~color, religion, gender, or national origin, does any of the~~  
5 ~~following:~~  
6           ~~(a) Causes physical contact with another person.~~  
7           ~~(b) Damages, destroys, or defaces any real or personal~~  
8 ~~property of another person.~~  
9           ~~(c) Threatens, by word or act, to do an act described in~~



1 ~~subdivision (a) or (b), if there is reasonable cause to believe~~  
 2 ~~that an act described in subdivision (a) or (b) will occur.~~and  
 3 intentionally uses force or violence on another individual; causes  
 4 bodily injury to another individual; intimidates another  
 5 individual; damages, destroys, or defaces any real, personal,  
 6 digital, or online property of another individual without the  
 7 consent of that individual; or threatens, by word or act, to do any  
 8 of the above-described actions, if the person, regardless of the  
 9 existence of any other motivating factors, intentionally targets  
 10 the individual or engages in the action in whole or in part based  
 11 on any of the following actual or perceived characteristics of  
 12 another individual:

13 (a) Race or color.

14 (b) Religion.

15 (c) Sex.

16 (d) Sexual orientation.

17 (e) Gender identity or expression.

18 (f) Physical or mental disability.

19 (g) Age.

20 (h) Ethnicity.

21 (i) National origin.

22 (j) Association or affiliation with an individual or group of  
 23 individuals in whole or in part based on a characteristic described  
 24 under subdivisions (a) to (i).

25 (2) ~~Ethnic intimidation~~ Except as provided in subsection (3),  
 26 a person who violates subsection (1) is guilty of a felony  
 27 punishable by imprisonment for not more than 2 years, or by a fine  
 28 of not more than \$5,000.00, or both.

29 (3) If any of the following conditions apply, a person who



1 violates subsection (1) is guilty of a felony punishable by  
2 imprisonment for not more than 5 years, or by a fine of not more  
3 than \$10,000.00, or both:

4 (a) The violation results in bodily injury.

5 (b) The person has 1 or more prior convictions for violating  
6 subsection (1).

7 (c) A victim of the violation of subsection (1) is less than  
8 18 years of age and the offender is at least 19 years of age.

9 (d) The person commits the violation of subsection (1) in  
10 concert with 1 or more other individuals.

11 (e) The person is in possession of a firearm during the  
12 commission of the violation of subsection (1).

13 (4) If the prosecuting attorney intends to seek an enhanced  
14 sentence based upon the defendant having 1 or more prior  
15 convictions under subsection (3)(b), the prosecuting attorney shall  
16 include on the complaint and information a statement listing the  
17 prior conviction or convictions. The existence of the defendant's  
18 prior conviction or convictions must be determined by the court,  
19 without a jury, at sentencing or at a separate hearing for that  
20 purpose before sentencing. The existence of a prior conviction may  
21 be established by any evidence relevant for that purpose,  
22 including, but not limited to, 1 or more of the following:

23 (a) A copy of the judgment of conviction.

24 (b) A transcript of a prior trial, plea-taking, or sentencing.

25 (c) Information contained in a presentence report.

26 (d) The defendant's statement.

27 (5) In lieu of or in addition to the penalties described in  
28 subsection (2), the court may, if the defendant consents, impose an  
29 alternative sentence described under this subsection. In



1 determining the suitability of an alternative sentence described  
 2 under this subsection, the court shall consider the criminal  
 3 history of the offender, the impact of the offense on the victim  
 4 and wider community, the availability of the alternative sentence,  
 5 and the nature of the violation. An alternative sentence may, if  
 6 the entity chosen for community service is amenable, include an  
 7 order requiring the offender to complete a period of community  
 8 service intended to enhance the offender's understanding of the  
 9 impact of the offense upon the victim and wider community.

10 (6) The court may, if the defendant consents, reduce any  
 11 penalty imposed under subsection (3) by not more than 20%, and  
 12 impose an alternative sentence described under this subsection. In  
 13 determining the suitability of an alternative sentence described  
 14 under this subsection, the court shall consider the criminal  
 15 history of the offender, the impact of the offense on the victim  
 16 and wider community, the availability of the alternative sentence,  
 17 and the nature of the violation. An alternative sentence may, if  
 18 the entity chosen for community service is amenable, include an  
 19 order requiring the offender to complete a period of community  
 20 service intended to enhance the offender's understanding of the  
 21 impact of the offense upon the victim and wider community.

22 (7) ~~(3)~~ Regardless of the existence or outcome of any criminal  
 23 prosecution, ~~a person~~ **an individual** who suffers **bodily** injury ~~to~~  
 24 ~~his or her person~~ or damage to ~~his or her~~ **the individual's** property  
 25 as a result of ~~ethnic intimidation~~ **a hate crime** may bring a civil  
 26 cause of action against the person who commits the offense to  
 27 secure an injunction, actual damages, including damages for  
 28 emotional distress, or other appropriate relief. A plaintiff who  
 29 prevails in a civil action brought ~~pursuant to~~ **under** this section



1 may recover both of the following:

2 (a) Damages in the amount of 3 times the actual damages  
3 described in this subsection or ~~\$2,000.00~~, **\$25,000.00**, whichever is  
4 greater.

5 (b) Reasonable attorney fees and costs.

6 **(8) As used in this section:**

7 (a) **"Gender identity or expression" means having or being**  
8 **perceived as having a gender-related self-identity or expression**  
9 **whether or not associated with an individual's assigned sex at**  
10 **birth.**

11 (b) **"Intimidate" means a willful course of conduct involving**  
12 **repeated or continuing harassment of another individual that would**  
13 **cause a reasonable individual to feel terrorized, frightened, or**  
14 **threatened, and that actually causes the victim to feel terrorized,**  
15 **frightened, or threatened. Intimidate does not include**  
16 **constitutionally protected activity or conduct that serves a**  
17 **legitimate purpose.**

