

Act No. 586
Public Acts of 1996
Approved by the Governor
January 17, 1997
Filed with the Secretary of State
January 21, 1997

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Senators Van Regenmorter, DeBeaussaert, V. Smith, McManus, Shugars, Steil, Rogers, Bennett, Gougeon, Schuette, Bouchard, Stille, Dingell, North, Byrum, Hoffman and Gast

ENROLLED SENATE BILL No. 378

AN ACT to amend section 479a of Act No. 328 of the Public Acts of 1931, entitled as amended "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," as amended by Act No. 407 of the Public Acts of 1988, being section 750.479a of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 479a of Act No. 328 of the Public Acts of 1931, as amended by Act No. 407 of the Public Acts of 1988, being section 750.479a of the Michigan Compiled Laws, is amended to read as follows:

Sec. 479a. (1) A driver of a motor vehicle who is given by hand, voice, emergency light, or siren a visual or audible signal by a police or conservation officer, acting in the lawful performance of his or her duty, directing the driver to bring his or her motor vehicle to a stop shall not willfully fail to obey that direction by increasing the speed of the vehicle, extinguishing the lights of the vehicle, or otherwise attempting to flee or elude the police or conservation officer. This subsection does not apply unless the police or conservation officer giving the signal is in uniform and the vehicle driven by the police or conservation officer is identified as an official police or department of natural resources vehicle.

(2) Except as provided in subsection (3), (4), or (5), an individual who violates subsection (1) is guilty of fourth-degree fleeing and eluding, a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$500.00, or both.

(3) Except as provided in subsection (4) or (5), an individual who violates subsection (1) is guilty of third-degree fleeing and eluding, a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$1,000.00, or both, if 1 or more of the following circumstances apply:

(a) The violation results in a collision or accident.

(b) A portion of the violation occurred in an area where the speed limit is 35 miles an hour or less, whether that speed limit is posted or imposed as a matter of law.

(c) The individual has a prior conviction for fourth-degree fleeing and eluding, attempted fourth-degree fleeing and eluding, or fleeing and eluding under a current or former law of this state prohibiting substantially similar conduct.

(4) Except as provided in subsection (5), an individual who violates subsection (1) is guilty of second-degree fleeing and eluding, a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$5,000.00, or both, if 1 or more of the following circumstances apply:

(a) The violation results in serious injury to an individual.

(b) The individual has 1 or more prior convictions for first-, second-, or third-degree fleeing and eluding, attempted first-, second-, or third-degree fleeing and eluding, or fleeing and eluding under a current or former law of this state prohibiting substantially similar conduct.

(c) The individual has any combination of 2 or more prior convictions for fourth-degree fleeing and eluding, attempted fourth-degree fleeing and eluding, or fleeing and eluding under a current or former law of this state prohibiting substantially similar conduct.

(5) If the violation results in the death of another individual, an individual who violates subsection (1) is guilty of first-degree fleeing and eluding, a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(6) An individual who forcibly assaults or commits a bodily injury requiring medical care or attention upon a peace or police officer of this state while the peace or police officer is engaged in making a lawful arrest, knowing him or her to be a peace or police officer, is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 2 years, or both.

(7) As part of the sentence imposed under subsection (2) or (3), the court shall order the secretary of state to suspend the individual's operator's or chauffeur's license for a period of 1 year. The individual is not eligible to receive a restricted license during the first 6 months of the period of suspension. If a term of imprisonment is served as a part of the sentence, the period of suspension of the individual's license shall begin after the completion of the term of imprisonment.

(8) As part of the sentence imposed under subsection (4) or (5), the court shall order the secretary of state to revoke the individual's operator's or chauffeur's license.

(9) Except as otherwise provided, a conviction under this section does not prohibit a conviction and sentence under any other applicable provision for conduct arising out of the same transaction. A conviction under subsection (2), (3), (4), or (5) prohibits a conviction under section 602a of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.602a of the Michigan Compiled Laws, for conduct arising out of the same transaction.

(10) As used in this section, "serious injury" means a physical injury that is not necessarily permanent, but that constitutes serious bodily disfigurement or that seriously impairs the functioning of a body organ or limb. Serious injury includes, but is not limited to, 1 or more of the following:

- (a) Loss of a limb or of use of a limb.
- (b) Loss of a hand, foot, finger, or thumb or of use of a hand, foot, finger, or thumb.
- (c) Loss of an eye or ear or of use of an eye or ear.
- (d) Loss or substantial impairment of a bodily function.
- (e) Serious visible disfigurement.
- (f) A comatose state that lasts for more than 3 days.
- (g) Measurable brain damage or mental impairment.
- (h) A skull fracture or other serious bone fracture.
- (i) Subdural hemorrhage or hematoma.

Section 2. This amendatory act shall take effect June 1, 1997.

Section 3. This amendatory act shall not take effect unless House Bill No. 4534 of the 88th Legislature is enacted into law.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.

