



HOUSE BILL No. 5025

September 12, 1995, Introduced by Rep. Jamian and referred to the Committee on Judiciary and Civil Rights.

A bill to amend section 479a of Act No. 328 of the Public Acts of 1931, entitled as amended "The Michigan penal code," 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:

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

5 Sec. 479a. (1) A driver of a motor vehicle who is given by
6 hand, voice, emergency light, or siren a visual or audible signal
7 by a police or conservation officer, acting in the lawful
8 performance of his or her duty, directing the driver to bring his
9 or her motor vehicle to a stop ~~— and who~~ SHALL NOT willfully

1 ~~fails~~ FAIL to obey that direction by increasing the speed of
2 the vehicle, extinguishing the lights of the vehicle, or other-
3 wise attempting to flee or elude the police or conservation
4 officer. ~~, is guilty of a misdemeanor, and shall be punished by~~
5 ~~imprisonment for not less than 30 days nor more than 1 year, and,~~
6 ~~in addition, may be fined not more than \$1,000.00 and may be~~
7 ~~ordered to pay the costs of prosecution. The court may depart~~
8 ~~from the minimum term of imprisonment authorized under this sub-~~
9 ~~section if the court finds on the record that there are substan-~~
10 ~~tial and compelling reasons to do so and if the court imposes~~
11 ~~community service as a part of the sentence. (2) Subsection (1)~~

12 THIS SUBSECTION does not apply unless the police or conservation
13 officer giving the signal is in uniform ~~—~~ and the vehicle
14 driven by the police or conservation officer is identified as an
15 official police or department of natural resources vehicle.

16 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), (4), OR (5), AN
17 INDIVIDUAL WHO VIOLATES SUBSECTION (1) IS GUILTY OF FOURTH-DEGREE
18 FLEEING AND ELUDING, A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
19 MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$500.00, OR BOTH.

20 (3) EXCEPT AS PROVIDED IN SUBSECTION (4) OR (5), AN INDIVID-
21 UAL WHO VIOLATES SUBSECTION (1) IS GUILTY OF THIRD-DEGREE FLEEING
22 AND ELUDING, A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE
23 THAN 5 YEARS OR A FINE OF NOT MORE THAN \$1,000.00, OR BOTH, IF 1
24 OR MORE OF THE FOLLOWING CIRCUMSTANCES APPLY:

25 (A) THE VIOLATION RESULTS IN A COLLISION OR ACCIDENT.

1 (B) A PORTION OF THE VIOLATION OCCURRED IN AN AREA WHERE THE
2 SPEED LIMIT IS 35 MILES AN HOUR OR LESS, WHETHER THAT SPEED LIMIT
3 IS POSTED OR IMPOSED AS A MATTER OF LAW.

4 (C) THE INDIVIDUAL HAS A PRIOR CONVICTION FOR FOURTH-DEGREE
5 FLEEING AND ELUDING, ATTEMPTED FOURTH-DEGREE FLEEING AND ELUDING,
6 OR FLEEING AND ELUDING UNDER A CURRENT OR FORMER LAW OF THIS
7 STATE PROHIBITING SUBSTANTIALLY SIMILAR CONDUCT.

8 (4) EXCEPT AS PROVIDED IN SUBSECTION (5), AN INDIVIDUAL WHO
9 VIOLATES SUBSECTION (1) IS GUILTY OF SECOND-DEGREE FLEEING AND
10 ELUDING, A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10
11 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH, IF 1 OR MORE
12 OF THE FOLLOWING CIRCUMSTANCES APPLY:

13 (A) THE VIOLATION RESULTS IN SERIOUS INJURY TO AN
14 INDIVIDUAL.

15 (B) THE INDIVIDUAL HAS 1 OR MORE PRIOR CONVICTIONS FOR
16 FIRST-, SECOND-, OR THIRD-DEGREE FLEEING AND ELUDING, ATTEMPTED
17 FIRST-, SECOND-, OR THIRD-DEGREE FLEEING AND ELUDING, OR FLEEING
18 AND ELUDING UNDER A CURRENT OR FORMER LAW OF THIS STATE PROHIBIT-
19 ING SUBSTANTIALLY SIMILAR CONDUCT.

20 (C) THE INDIVIDUAL HAS ANY COMBINATION OF 2 OR MORE PRIOR
21 CONVICTIONS FOR FOURTH-DEGREE FLEEING AND ELUDING, ATTEMPTED
22 FOURTH-DEGREE FLEEING AND ELUDING, OR FLEEING AND ELUDING UNDER A
23 CURRENT OR FORMER LAW OF THIS STATE PROHIBITING SUBSTANTIALLY
24 SIMILAR CONDUCT.

25 (5) IF THE VIOLATION RESULTS IN THE DEATH OF ANOTHER INDI-
26 VIDUAL, AN INDIVIDUAL WHO VIOLATES SUBSECTION (1) IS GUILTY OF
27 FIRST-DEGREE FLEEING AND ELUDING, A FELONY PUNISHABLE BY

1 IMPRISONMENT FOR NOT MORE THAN 15 YEARS OR A FINE OF NOT MORE
2 THAN \$10,000.00, OR BOTH.

3 (6) ~~(3) A person~~ AN INDIVIDUAL who forcibly assaults or
4 commits a bodily injury ~~which requires~~ REQUIRING medical care
5 or attention upon a peace or police officer of this state while
6 the peace or police officer is engaged in making a lawful arrest,
7 knowing him or her to be a peace or police officer, is guilty of
8 a misdemeanor ~~—~~ punishable by a fine of not more than \$1,000.00
9 ~~—~~ or ~~by~~ imprisonment for not more than 2 years, or both.

10 ~~(4) A person who violates subsection (1) within 5 years of~~
11 ~~a prior conviction of a violation of subsection (1) is guilty of~~
12 ~~a felony, and shall be punished by imprisonment for a mandatory~~
13 ~~minimum term of not less than 1 year and a maximum term of not~~
14 ~~more than 4 years, and by a fine of not more than \$10,000.00,~~
15 ~~together with the costs of the prosecution.~~

16 ~~(5) The driver of a motor vehicle who attempts to flee or~~
17 ~~elude a police or conservation officer in violation of subsection~~
18 ~~(1) and while attempting to so flee or elude causes serious~~
19 ~~bodily injury to a person, is guilty of a felony, and shall be~~
20 ~~punished by imprisonment for a minimum term of not less than 1~~
21 ~~year and a maximum term of not more than 4 years, and by a fine~~
22 ~~of not more than \$10,000.00, together with the costs of the~~
23 ~~prosecution. The court may depart from the minimum term of~~
24 ~~imprisonment authorized under this subsection if the court finds~~
25 ~~on the record that there are substantial and compelling reasons~~
26 ~~to do so and if the court imposes community service as a part of~~
27 ~~the sentence.~~

1 (7) ~~(6)~~ As part of the sentence ~~for a violation of~~
2 IMPOSED UNDER subsection ~~(1), (4), or (5)~~ (2) OR (3), the court
3 shall order the secretary of state to suspend the ~~person's~~
4 INDIVIDUAL'S operator's or chauffeur's license for a period of 1
5 year. The ~~person shall~~ INDIVIDUAL IS not ~~be~~ eligible to
6 receive a restricted license during the first 6 months of the
7 period of suspension. If a term of imprisonment is served as a
8 part of the sentence, the period of suspension of the ~~person's~~
9 INDIVIDUAL'S license shall begin after the completion of the term
10 of imprisonment.

11 (8) AS PART OF THE SENTENCE IMPOSED UNDER SUBSECTION (4) OR
12 (5), THE COURT SHALL ORDER THE SECRETARY OF STATE TO REVOKE THE
13 INDIVIDUAL'S OPERATOR'S OR CHAUFFEUR'S LICENSE.

14 (9) A CONVICTION UNDER THIS SECTION DOES NOT PROHIBIT A CON-
15 VICTION AND SENTENCE UNDER ANY OTHER APPLICABLE PROVISION, EXCEPT
16 SECTION 602A OF THE MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE
17 PUBLIC ACTS OF 1949, BEING SECTION 257.602A OF THE MICHIGAN
18 COMPILED LAWS, FOR CONDUCT ARISING OUT OF THE SAME TRANSACTION.

19 (10) ~~(7)~~ As used in this section, "serious ~~bodily~~
20 injury" means ~~serious impairment of a body function or permanent~~
21 ~~serious disfigurement~~ A PHYSICAL INJURY THAT IS NOT NECESSARILY
22 PERMANENT, BUT THAT CONSTITUTES SERIOUS BODILY DISFIGUREMENT OR
23 THAT SERIOUSLY IMPAIRS THE FUNCTIONING OF A BODY ORGAN OR LIMB.
24 SERIOUS INJURY INCLUDES, BUT IS NOT LIMITED TO, 1 OR MORE OF THE
25 FOLLOWING:

26 (A) LOSS OF A LIMB OR OF USE OF A LIMB.

1 (B) LOSS OF A HAND, FOOT, FINGER, OR THUMB OR OF USE OF A
2 HAND, FOOT, FINGER, OR THUMB.

3 (C) LOSS OF AN EYE OR EAR OR OF USE OF AN EYE OR EAR.

4 (D) LOSS OR SUBSTANTIAL IMPAIRMENT OF A BODILY FUNCTION.

5 (E) SERIOUS VISIBLE DISFIGUREMENT.

6 (F) A COMATOSE STATE THAT LASTS FOR MORE THAN 3 DAYS.

7 (G) MEASURABLE BRAIN DAMAGE OR MENTAL IMPAIRMENT.

8 (H) A SKULL FRACTURE OR OTHER SERIOUS BONE FRACTURE.

9 (I) SUBDURAL HEMORRHAGE OR HEMATOMA.

10 Section 2. This amendatory act shall not take effect unless
11 Senate Bill No. _____ or House Bill No. 5024 (request
12 no. 02189'95 b) of the 88th Legislature is enacted into law.