

# HOUSE BILL No. 4701

May 2, 2001, Introduced by Reps. Woronchak, Gilbert, Spade, Raczkowski, Birkholz, Julian, Sanborn, Ehardt, Pappageorge, Voorhees and Tabor and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 479a (MCL 750.479a), as amended by 1998 PA  
344.

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

1       Sec. 479a. (1) A driver of a motor vehicle who is given by  
2 hand, voice, emergency light, or siren a visual or audible signal  
3 by a police or conservation officer, acting in the lawful per-  
4 formance of his or her duty, directing the driver to bring his or  
5 her motor vehicle to a stop shall not willfully fail to obey that  
6 direction by increasing the speed of the vehicle, extinguishing  
7 the lights of the vehicle, or otherwise attempting to flee or  
8 elude the police or conservation officer. This subsection does  
9 not apply unless the police or conservation officer giving the

1 signal is in uniform and the officer's vehicle is identified as  
2 an official police or department of natural resources vehicle.

3 (2) Except as provided in subsection (3), (4), or (5), an  
4 individual who violates subsection (1) is guilty of fourth-degree  
5 fleeing and eluding, a felony punishable by imprisonment for not  
6 more than 2 years or ~~a fine of~~ SHALL BE FINED not LESS THAN  
7 \$200.00 OR more than \$500.00, or both.

8 (3) Except as provided in subsection (4) or (5), an individ-  
9 ual who violates subsection (1) UNDER ANY OF THE FOLLOWING  
10 CIRCUMSTANCES is guilty of third-degree fleeing and eluding ~~, a~~  
11 ~~felony punishable by imprisonment for not more than 5 years or a~~  
12 ~~fine of not more than \$1,000.00, or both, if 1 or more of the~~  
13 ~~following circumstances apply~~ AND SHALL BE PUNISHED AS FOLLOWS:

14 (a) ~~The~~ IF THE violation results in a collision or  
15 accident, THE INDIVIDUAL IS GUILTY OF A FELONY PUNISHABLE BY  
16 IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN  
17 \$1,000.00, OR BOTH.

18 (b) ~~A~~ IF A portion of the violation occurred in an area  
19 where the speed limit is 35 miles an hour or less, whether that  
20 speed limit is posted or imposed as a matter of law, THE INDIVID-  
21 UAL IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
22 THAN 5 YEARS OR A FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

23 (c) ~~The~~ IF THE individual has a prior conviction for  
24 fourth-degree fleeing and eluding, attempted fourth-degree flee-  
25 ing and eluding, or fleeing and eluding under a current or former  
26 law of this state prohibiting substantially similar conduct, THE  
27 INDIVIDUAL IS GUILTY OF A FELONY AND SHALL BE PUNISHED BY

1 IMPRISONMENT FOR NOT LESS THAN 180 DAYS OR MORE THAN 5 YEARS AND  
2 MAY BE FINED NOT MORE THAN \$1,000.00.

3 (4) Except as provided in subsection (5), an individual who  
4 violates subsection (1) UNDER ANY OF THE FOLLOWING CIRCUMSTANCES  
5 is guilty of second-degree fleeing and eluding ~~, a felony pun-~~  
6 ~~ishable by imprisonment for not more than 10 years or a fine of~~  
7 ~~not more than \$5,000.00, or both, if 1 or more of the following~~  
8 ~~circumstances apply~~ AND SHALL BE PUNISHED AS FOLLOWS:

9 (a) ~~The~~ IF THE violation results in serious injury to an  
10 individual, THE INDIVIDUAL IS GUILTY OF A FELONY PUNISHABLE BY  
11 IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT MORE  
12 THAN \$5,000.00, OR BOTH.

13 (b) ~~The~~ IF THE individual has 1 or more prior convictions  
14 for first-, second-, or third-degree fleeing and eluding,  
15 attempted first-, second-, or third-degree fleeing and eluding,  
16 or fleeing and eluding under a current or former law of this  
17 state prohibiting substantially similar conduct, THE INDIVIDUAL  
18 IS GUILTY OF A FELONY AND SHALL BE PUNISHED BY IMPRISONMENT FOR  
19 NOT LESS THAN 180 DAYS OR MORE THAN 10 YEARS AND MAY BE FINED NOT  
20 MORE THAN \$5,000.00.

21 (c) ~~The~~ IF THE individual has any combination of 2 or more  
22 prior convictions for fourth-degree fleeing and eluding,  
23 attempted fourth-degree fleeing and eluding, or fleeing and elud-  
24 ing under a current or former law of this state prohibiting sub-  
25 stantially similar conduct, THE INDIVIDUAL IS GUILTY OF A FELONY  
26 AND SHALL BE PUNISHED BY IMPRISONMENT FOR NOT LESS THAN 180 DAYS  
27 OR MORE THAN 10 YEARS AND MAY BE FINED NOT MORE THAN \$5,000.00.

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

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

13 (7) Upon a conviction for a violation or attempted violation  
14 under subsection (2) or (3), the secretary of state shall suspend  
15 the individual's operator's or chauffeur's license as provided in  
16 section 319 of the Michigan vehicle code, 1949 PA 300,  
17 MCL 257.319.

18 (8) Upon a conviction for a violation or attempted violation  
19 under subsection (4) or (5), the secretary of state shall revoke  
20 the individual's operator's or chauffeur's license as provided in  
21 section 303 of the Michigan vehicle code, 1949 PA 300,  
22 MCL 257.303.

23 (9) Except as otherwise provided, a conviction under this  
24 section does not prohibit a conviction and sentence under any  
25 other applicable provision for conduct arising out of the same  
26 transaction. A conviction under subsection (2), (3), (4), or (5)  
27 prohibits a conviction under section 602a of the Michigan vehicle

1 code, 1949 PA 300, MCL 257.602a, for conduct arising out of the  
2 same transaction.

3 (10) THE COURT MAY ORDER A SENTENCE IMPOSED FOR VIOLATING  
4 THIS SECTION TO BE SERVED CONSECUTIVELY TO A SENTENCE IMPOSED FOR  
5 ANY OTHER VIOLATION ARISING OUT OF THE SAME TRANSACTION.

6 (11) ~~(10)~~ As used in this section, "serious injury" means  
7 a physical injury that is not necessarily permanent, but that  
8 constitutes serious bodily disfigurement or that seriously  
9 impairs the functioning of a body organ or limb. Serious injury  
10 includes, but is not limited to, 1 or more of the following:

11 (a) Loss of a limb or of use of a limb.

12 (b) Loss of a hand, foot, finger, or thumb or of use of a  
13 hand, foot, finger, or thumb.

14 (c) Loss of an eye or ear or of use of an eye or ear.

15 (d) Loss or substantial impairment of a bodily function.

16 (e) Serious visible disfigurement.

17 (f) A comatose state that lasts for more than 3 days.

18 (g) Measurable brain damage or mental impairment.

19 (h) A skull fracture or other serious bone fracture.

20 (i) Subdural hemorrhage or hematoma.