

# SENATE BILL NO. 601

October 19, 2023, Introduced by Senator SANTANA and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

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 if  
2 that person maliciously, and with specific intent to intimidate or  
3 harass another person because of that person's race, color,  
4 religion, gender, or national origin, does any of the following:  
5           (a) Causes physical contact with another person.  
6           (b) Damages, destroys, or defaces any real or personal

1 property of another person.

2 (c) ~~Threatens~~, **Except as provided in subsection (5),**  
3 **threatens**, by word or act, to do an act described in subdivision  
4 (a) or (b), if there is reasonable cause to believe that an act  
5 described in subdivision (a) or (b) will occur.

6 (2) Ethnic intimidation is a felony punishable by imprisonment  
7 for not more than 2 years, or by a fine of not more than \$5,000.00,  
8 or both.

9 (3) Regardless of the existence or outcome of any criminal  
10 prosecution, a person who suffers injury ~~to his or her person or~~  
11 ~~damage to his or her property~~ **damage** as a result of ethnic  
12 intimidation may bring a civil cause of action against the person  
13 who commits the offense to secure an injunction, actual damages,  
14 including damages for emotional distress, or other appropriate  
15 relief. A plaintiff who prevails in a civil action brought pursuant  
16 to this section may recover both of the following:

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

19 (b) Reasonable attorney fees and costs.

20 (4) **Except as provided in subsection (5), a person is guilty**  
21 **of criminal threatening if that person intentionally or knowingly**  
22 **threatens by word or conduct to commit against another individual**  
23 **or group of individuals an unlawful act of violence or to damage**  
24 **the property of another individual or group of individuals in a**  
25 **manner that would cause a reasonable individual to feel terrorized,**  
26 **frightened, intimidated, threatened, harassed, or fearful and that**  
27 **actually causes the victim or victims to feel terrorized,**  
28 **frightened, intimidated, threatened, harassed, or placed in fear. A**  
29 **person that commits criminal threatening is guilty of a crime as**

1 follows:

2 (a) For a first offense, a misdemeanor punishable by  
3 imprisonment for not more than 1 year or a fine of not more than  
4 \$1,000.00, or both.

5 (b) For a second or subsequent offense, a felony punishable by  
6 imprisonment for not more than 2 years or a fine of not more than  
7 \$2,500.00, or both.

8 (5) A person that commits criminal threatening in violation of  
9 subsection (4) because of the victim's race, color, religion,  
10 gender, gender identity, sexual orientation, or national origin is  
11 guilty of a felony punishable by imprisonment for not than 2 years  
12 or a fine of not more than \$5,000.00, or both.

13 (6) In a prosecution for a violation of subsection (4) or (5),  
14 evidence that the defendant continued to engage in a course of  
15 conduct involving repeated unconsented contact with the victim  
16 after having been requested by the victim to discontinue the same  
17 or a different form of unconsented contact, and to refrain from any  
18 further unconsented contact with the victim, gives rise to a  
19 rebuttable presumption that the continuation of the course of  
20 conduct caused the victim to feel terrorized, frightened,  
21 intimidated, threatened, or harassed.

22 (7) If the prosecuting attorney intends to seek an enhanced  
23 sentence based upon the defendant having 1 or more prior  
24 convictions, the prosecuting attorney shall include on the  
25 complaint and information a statement listing the prior conviction  
26 or convictions. The existence of the defendant's prior conviction  
27 or convictions must be determined by the court, without a jury, at  
28 sentencing or at a separate hearing for that purpose before  
29 sentencing. The existence of a prior conviction may be established

1 by any evidence relevant for that purpose, including, but not  
2 limited to, 1 or more of the following:

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

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

5 (c) Information contained in a presentence report.

6 (d) The defendant's statement.

7 (8) A criminal penalty provided for under this section may be  
8 imposed in addition to any penalty that may be imposed for any  
9 other criminal offense arising from the same conduct or for any  
10 contempt of court arising from the same conduct.

11 (9) As used in this section:

12 (a) "Course of conduct" means a pattern of conduct composed of  
13 a series of 2 or more separate noncontinuous acts evidencing a  
14 continuity of purpose.

15 (b) "Unconsented contact" means any contact with another  
16 individual that is initiated or continued without that individual's  
17 consent or in disregard of that individual's expressed desire that  
18 the contact be avoided or discontinued.