

SENATE SUBSTITUTE FOR

HOUSE BILL NO. 4482

(As amended September 24, 1998)

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 368 (MCL 750.368) and by adding sections 217c
and 478a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 217C. (1) A PERSON SHALL NOT IMPERSONATE, FALSELY REP-
2 RESENT HIMSELF OR HERSELF AS, OR FALSELY ACT AS A PUBLIC OFFICER
3 OR PUBLIC EMPLOYEE AND PREPARE, ISSUE, SERVE, EXECUTE, OR OTHERWISE
4 ACT
5 TO FURTHER THE OPERATION OF ANY LEGAL PROCESS OR UNAUTHORIZED
6 PROCESS THAT AFFECTS OR PURPORTS TO AFFECT PERSONS OR PROPERTY.
7 (2) EXCEPT AS PROVIDED IN SUBSECTION (3) OR (4), A PERSON
8 WHO VIOLATES SUBSECTION (1) IS GUILTY OF A MISDEMEANOR PUNISHABLE
9 BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE
THAN \$500.00, OR BOTH.

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1 (3) A PERSON WHO VIOLATES SUBSECTION (1) AFTER A PRIOR
2 CONVICTION FOR VIOLATING SUBSECTION (1) IS GUILTY OF A MISDE-
3 MEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A
4 FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

5 (4) A PERSON WHO VIOLATES SUBSECTION (1) AFTER 2 OR MORE
6 PRIOR CONVICTIONS FOR VIOLATING SUBSECTION (1) IS GUILTY OF A
7 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR A
8 FINE OF NOT MORE THAN \$2,000.00, OR BOTH.

9 (5) THIS SECTION DOES NOT PROHIBIT A PERSON FROM BEING
10 CHARGED WITH, CONVICTED OF, OR SENTENCED FOR ANY OTHER VIOLATION
11 OF LAW THAT INDIVIDUAL COMMITS WHILE VIOLATING THIS SECTION.

12 (6) THIS SECTION DOES NOT PROHIBIT INDIVIDUALS FROM ASSEMBL-
13 ING LAWFULLY OR LAWFUL FREE EXPRESSION OF OPINIONS OR DESIGNATION
14 OF GROUP AFFILIATION OR ASSOCIATION.

15 (7) AS USED IN THIS SECTION:

16 (A) "LAWFUL TRIBUNAL" MEANS A TRIBUNAL CREATED, ESTABLISHED,
17 AUTHORIZED, OR SANCTIONED BY LAW OR A TRIBUNAL OF A PRIVATE
18 ORGANIZATION, ASSOCIATION, OR ENTITY TO THE EXTENT THAT THE
19 ORGANIZATION, ASSOCIATION, OR ENTITY SEEKS IN A LAWFUL MANNER TO
20 AFFECT ONLY THE RIGHTS OR PROPERTY OF PERSONS WHO ARE MEMBERS OR
21 ASSOCIATES OF THAT ORGANIZATION, ASSOCIATION, OR ENTITY.

22 (B) "LEGAL PROCESS" MEANS A SUMMONS, COMPLAINT, PLEADING,
23 WRIT, WARRANT, INJUNCTION, NOTICE, SUBPOENA, LIEN, ORDER, OR
24 OTHER DOCUMENT ISSUED OR ENTERED BY OR ON BEHALF OF A COURT OR
25 LAWFUL TRIBUNAL OR LAWFULLY FILED WITH OR RECORDED BY A GOVERN-
26 MENTAL AGENCY THAT IS USED AS A MEANS OF EXERCISING OR ACQUIRING
27 JURISDICTION OVER A PERSON OR PROPERTY, TO ASSERT OR GIVE NOTICE

1 OF A LEGAL CLAIM AGAINST A PERSON OR PROPERTY, OR TO DIRECT

2 PERSONS TO TAKE OR REFRAIN FROM AN ACTION.

(C) "PUBLIC EMPLOYEE" MEANS AN EMPLOYEE OF THIS STATE, AN EMPLOYEE OF A CITY, VILLAGE, TOWNSHIP, OR COUNTY OF THIS STATE, OR AN EMPLOYEE OF A DEPARTMENT, BOARD, AGENCY, INSTITUTION, COMMISSION, AUTHORITY, DIVISION, COUNCIL, COLLEGE, UNIVERSITY, COURT, SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, SPECIAL DISTRICT, OR OTHER PUBLIC ENTITY OF THIS STATE OR OF A CITY, VILLAGE, TOWNSHIP, OR COUNTY IN THIS STATE, BUT DOES NOT INCLUDE A PERSON WHOSE EMPLOYMENT RESULTS FROM ELECTION OR APPOINTMENT.

(D) "PUBLIC OFFICER" MEANS A PERSON WHO IS ELECTED OR APPOINTED TO ANY OF THE FOLLOWING:

(i) AN OFFICE ESTABLISHED BY THE STATE CONSTITUTION OF 1963.

(ii) A PUBLIC OFFICE OF A CITY, VILLAGE, TOWNSHIP, OR COUNTY IN THIS STATE.

(iii) A DEPARTMENT, BOARD, AGENCY, INSTITUTION, COMMISSION, COURT, AUTHORITY, DIVISION, COUNCIL, COLLEGE, UNIVERSITY, SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, SPECIAL DISTRICT, OR OTHER PUBLIC ENTITY OF THIS STATE OR A CITY, VILLAGE, TOWNSHIP, OR COUNTY IN THIS STATE.

3 (E) "UNAUTHORIZED PROCESS" MEANS EITHER OF THE FOLLOWING:

4 (i) A DOCUMENT SIMULATING LEGAL PROCESS THAT IS PREPARED OR
5 ISSUED BY OR ON BEHALF OF AN ENTITY THAT PURPORTS OR REPRESENTS
6 ITSELF TO BE A LAWFUL TRIBUNAL OR A COURT, PUBLIC OFFICER, OR
7 OTHER AGENCY CREATED, ESTABLISHED, AUTHORIZED, OR SANCTIONED BY
8 LAW BUT THAT IS NOT A LAWFUL TRIBUNAL OR A COURT, PUBLIC OFFICER,
9 OR OTHER AGENCY CREATED, ESTABLISHED, AUTHORIZED, OR SANC-
10 TIONED BY LAW.

11 (ii) A DOCUMENT THAT WOULD OTHERWISE BE LEGAL PROCESS EXCEPT
12 THAT IT WAS NOT ISSUED OR ENTERED BY OR ON BEHALF OF A COURT OR
13 LAWFUL TRIBUNAL OR LAWFULLY FILED WITH OR RECORDED BY A GOVERN-
14 MENTAL AGENCY AS REQUIRED BY LAW.

15 Sec. 368. (1) ~~Notice or demand of payment simulating legal~~
16 ~~process--Any~~ A person or ~~his~~ agent ~~who~~ OF A PERSON shall NOT
17 BY PERSONAL SERVICE, MAIL, OR OTHERWISE serve or cause to be
18 served upon ~~any~~ A debtor a notice or demand of payment of money
19 on behalf of ~~any~~ A creditor ~~, by personal service or by mail~~
20 ~~or otherwise, such notice~~ THAT IS not ~~being~~ authorized by
21 ~~any~~ A statute or court of this state ~~, and which notice on~~
22 ~~demand of payment shall,~~ THAT SIMULATES in form and substance ~~,~~
23 ~~simulate any~~ legal process issued out of ~~any of the courts~~ A
24 COURT of this state. ~~, shall be~~

25 (2) A PERSON SHALL NOT PREPARE, ISSUE, SERVE, EXECUTE, OR

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26 OTHERWISE ACT TO FURTHER THE OPERATION OF ANY UNAUTHORIZED

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27 PROCESS.

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1 (3) EXCEPT AS PROVIDED IN SUBSECTION (4) OR (5), A PERSON
2 WHO VIOLATES THIS SECTION IS guilty of a misdemeanor PUNISHABLE
3 BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE
4 THAN \$100.00, OR BOTH.

5 (4) A PERSON WHO VIOLATES SUBSECTION (2) AFTER A PRIOR CON-
6 VICTION FOR VIOLATING THIS SECTION IS GUILTY OF A MISDEMEANOR
7 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF
8 NOT MORE THAN \$1,000.00, OR BOTH.

9 (5) A PERSON WHO VIOLATES SUBSECTION (2) AFTER 2 OR MORE
10 PRIOR CONVICTIONS FOR VIOLATING THIS SECTION IS GUILTY OF A
11 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR A
12 FINE OF NOT MORE THAN \$2,000.00, OR BOTH.

13 (6) THIS SECTION DOES NOT APPLY TO A LIEN AUTHORIZED UNDER A
14 STATUTE OF THIS STATE.

15 (7) THIS SECTION DOES NOT PROHIBIT A PERSON FROM BEING
16 CHARGED WITH, CONVICTED OF, OR SENTENCED FOR ANY OTHER VIOLATION
17 OF LAW THAT INDIVIDUAL COMMITS WHILE VIOLATING THIS SECTION.

18 (8) THIS SECTION DOES NOT PROHIBIT INDIVIDUALS FROM ASSEMBL-
19 ING LAWFULLY OR LAWFUL FREE EXPRESSION OF OPINIONS OR DESIGNATION
20 OF GROUP AFFILIATION OR ASSOCIATION.

21 (9) AS USED IN THIS SECTION:

22 (A) "LAWFUL TRIBUNAL" MEANS A TRIBUNAL CREATED, ESTABLISHED,
23 AUTHORIZED, OR SANCTIONED BY LAW OR A TRIBUNAL OF A PRIVATE
24 ORGANIZATION, ASSOCIATION, OR ENTITY TO THE EXTENT THAT THE
25 ORGANIZATION, ASSOCIATION, OR ENTITY SEEKS IN A LAWFUL MANNER TO
26 AFFECT ONLY THE RIGHTS OR PROPERTY OF PERSONS WHO ARE MEMBERS OR
27 ASSOCIATES OF THAT ORGANIZATION, ASSOCIATION, OR ENTITY.

1 (B) "LEGAL PROCESS" MEANS A SUMMONS, COMPLAINT, PLEADING,
2 WRIT, WARRANT, INJUNCTION, NOTICE, SUBPOENA, LIEN, ORDER, OR
3 OTHER DOCUMENT ISSUED OR ENTERED BY OR ON BEHALF OF A COURT OR
4 LAWFUL TRIBUNAL OR LAWFULLY FILED WITH OR RECORDED BY A GOVERN-
5 MENTAL AGENCY THAT IS USED AS A MEANS OF EXERCISING OR ACQUIRING
6 JURISDICTION OVER A PERSON OR PROPERTY, TO ASSERT OR GIVE NOTICE
7 OF A LEGAL CLAIM AGAINST A PERSON OR PROPERTY, OR TO DIRECT PER-
8 SONS TO TAKE OR REFRAIN FROM AN ACTION.

(C) "PUBLIC EMPLOYEE" MEANS AN EMPLOYEE OF THIS STATE, AN
EMPLOYEE OF A CITY, VILLAGE, TOWNSHIP, OR COUNTY OF THIS STATE, OR
AN EMPLOYEE OF A DEPARTMENT, BOARD, AGENCY, INSTITUTION, COMMISSION,
AUTHORITY, DIVISION, COUNCIL, COLLEGE, UNIVERSITY, COURT, SCHOOL
DISTRICT, INTERMEDIATE SCHOOL DISTRICT, SPECIAL DISTRICT, OR OTHER
PUBLIC ENTITY OF THIS STATE OR OF A CITY, VILLAGE, TOWNSHIP, OR
COUNTY IN THIS STATE, BUT DOES NOT INCLUDE A PERSON WHOSE EMPLOYMENT
RESULTS FROM ELECTION OR APPOINTMENT.

(D) "PUBLIC OFFICER" MEANS A PERSON WHO IS ELECTED OR APPOINTED
TO ANY OF THE FOLLOWING:

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(ii) A PUBLIC OFFICE OF A CITY, VILLAGE, TOWNSHIP, OR COUNTY IN
THIS STATE.

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COURT, AUTHORITY, DIVISION, COUNCIL, COLLEGE, UNIVERSITY, SCHOOL
DISTRICT, INTERMEDIATE SCHOOL DISTRICT, SPECIAL DISTRICT, OR OTHER
PUBLIC ENTITY OF THIS STATE OR A CITY, VILLAGE, TOWNSHIP, OR COUNTY
IN THIS STATE.

9 (E) "UNAUTHORIZED PROCESS" MEANS EITHER OF THE FOLLOWING:

10 (i) A DOCUMENT SIMULATING LEGAL PROCESS THAT IS PREPARED OR
11 ISSUED BY OR ON BEHALF OF AN ENTITY THAT PURPORTS OR REPRESENTS
12 ITSELF TO BE A LAWFUL TRIBUNAL OR A COURT, PUBLIC OFFICER, OR
13 OTHER AGENCY CREATED, ESTABLISHED, AUTHORIZED, OR SANCTIONED BY
14 LAW BUT THAT IS NOT A LAWFUL TRIBUNAL OR A COURT, PUBLIC OFFICER,
15 OR OTHER AGENCY CREATED, ESTABLISHED, AUTHORIZED, OR SANC-
16 TIONED BY LAW.

17 (ii) A DOCUMENT THAT WOULD OTHERWISE BE LEGAL PROCESS EXCEPT
18 THAT IT WAS NOT ISSUED OR ENTERED BY OR ON BEHALF OF A COURT OR
19 LAWFUL TRIBUNAL OR LAWFULLY FILED WITH OR RECORDED BY A GOVERN-
20 MENTAL AGENCY AS REQUIRED BY LAW. HOWEVER, THIS SUBPARAGRAPH
21 DOES NOT APPLY TO A DOCUMENT THAT WOULD OTHERWISE BE LEGAL PRO-
22 CESS BUT FOR 1 OR MORE TECHNICAL DEFECTS, INCLUDING BUT NOT
23 LIMITED TO ERRORS INVOLVING NAMES, SPELLING, ADDRESSES, OR TIME
24 OF ISSUE OR FILING OR OTHER DEFECTS THAT DO NOT RELATE TO THE
25 SUBSTANCE OF THE CLAIM OR ACTION UNDERLYING THE DOCUMENT.

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26 SEC. 478A. (1) A PERSON SHALL NOT ATTEMPT TO INTIMIDATE,
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27 HINDER, OR OBSTRUCT A PUBLIC OFFICER OR PUBLIC EMPLOYEE OR A PEACE

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1 OFFICER IN THE DISCHARGE OF HIS OR HER OFFICIAL DUTIES BY A USE
2 OF UNAUTHORIZED PROCESS.

3 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), A PERSON WHO VIO-
4 LATES SUBSECTION (1) IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
5 IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN
6 \$1,000.00, OR BOTH.

7 (3) A PERSON WHO VIOLATES SUBSECTION (1) AFTER 1 OR MORE
8 PRIOR CONVICTIONS FOR VIOLATING SUBSECTION (1) IS GUILTY OF A
9 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR A
10 FINE OF NOT MORE THAN \$2,000.00, OR BOTH.

11 (4) THIS SECTION DOES NOT APPLY TO A LIEN AUTHORIZED UNDER A
12 STATUTE OF THIS STATE.

13 (5) THIS SECTION DOES NOT PROHIBIT A PERSON FROM BEING
14 CHARGED WITH, CONVICTED OF, OR SENTENCED FOR ANY OTHER VIOLATION
15 OF LAW THAT INDIVIDUAL COMMITS WHILE VIOLATING THIS SECTION.

16 (6) THIS SECTION DOES NOT PROHIBIT INDIVIDUALS FROM ASSEMBL-
17 ING LAWFULLY OR LAWFUL FREE EXPRESSION OF OPINIONS OR DESIGNATION
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19 (7) AS USED IN THIS SECTION:

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1 OTHER DOCUMENT ISSUED OR ENTERED BY OR ON BEHALF OF A COURT OR
2 LAWFUL TRIBUNAL OR LAWFULLY FILED WITH OR RECORDED BY A GOVERN-
3 MENTAL AGENCY THAT IS USED AS A MEANS OF EXERCISING OR ACQUIRING
4 JURISDICTION OVER A PERSON OR PROPERTY, TO ASSERT OR GIVE NOTICE
5 OF A LEGAL CLAIM AGAINST A PERSON OR PROPERTY, OR TO DIRECT PER-
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12 LAW BUT THAT IS NOT A LAWFUL TRIBUNAL OR A COURT, PUBLIC OFFICER,
13 OR OTHER AGENCY CREATED, ESTABLISHED, AUTHORIZED, OR SANC-
14 TIONED BY LAW.

15 (ii) A DOCUMENT THAT WOULD OTHERWISE BE LEGAL PROCESS EXCEPT
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17 LAWFUL TRIBUNAL OR LAWFULLY FILED WITH OR RECORDED BY A GOVERN-
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21 LIMITED TO ERRORS INVOLVING NAMES, SPELLING, ADDRESSES, OR TIME
22 OF ISSUE OR FILING OR OTHER DEFECTS THAT DO NOT RELATE TO THE
23 SUBSTANCE OF THE CLAIM OR ACTION UNDERLYING THE DOCUMENT.

24 Enacting section 1. This amendatory act takes effect
25 January 1, 1999.

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Final page.

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