

# SENATE BILL No. 1176

April 28, 2004, Introduced by Senators GEORGE, GOSCHKA, GARCIA, BIRKHOLZ,  
BERNERO and TOY and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
(MCL 750.1 to 750.568) by adding section 395.

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

1       Sec. 395. (1) A person shall not do either of the  
2 following:

3       (a) Damage or destroy the research property of another person  
4 with the intent to do either of the following:

5       (i) To frighten, intimidate, or harass any person.

6       (ii) To prevent any person from engaging in any lawful  
7 profession, occupation, or activity.

8       (b) Place any object in any research property to prevent the  
9 lawful growing, harvesting, transportation, keeping, selling, or  
10 processing of that research property.

11       (2) A person who violates subsection (1) is guilty of a crime

1 as follows:

2 (a) If the value of the research property is less than  
3 \$200.00, the person is guilty of a misdemeanor punishable by  
4 imprisonment for not more than 93 days or a fine of not more than  
5 \$500.00 or 3 times the value of the research property damaged or  
6 destroyed, whichever is greater, or both imprisonment and a  
7 fine.

8 (b) If any of the following apply, the person is guilty of a  
9 misdemeanor punishable by imprisonment for not more than 1 year  
10 or a fine of not more than \$2,000.00 or 3 times the value of the  
11 research property damaged or destroyed, whichever is greater, or  
12 both imprisonment and a fine:

13 (i) The value of the research property is \$200.00 or more but  
14 less than \$1,000.00.

15 (ii) The person violates subdivision (a) and has 1 or more  
16 prior convictions for committing or attempting to commit a  
17 violation of this section.

18 (c) If any of the following apply, the person is guilty of a  
19 felony punishable by imprisonment for not more than 5 years or a  
20 fine of not more than \$10,000.00 or 3 times the value of the  
21 research property damaged or destroyed, whichever is greater, or  
22 both imprisonment and a fine:

23 (i) The value of the research property is \$1,000.00 or more  
24 but less than \$20,000.00.

25 (ii) The person violates subdivision (b) (i) and has 1 or more  
26 prior convictions for violating or attempting to violate this  
27 section. For purposes of this subparagraph, however, a prior

1 conviction does not include a conviction for a violation or  
2 attempted violation of subdivision (a) or (b) (ii).

3 (d) If any of the following apply, the person is guilty of a  
4 felony punishable by imprisonment for not more than 5 years or a  
5 fine of not more than \$15,000.00 or 3 times the value of the  
6 research property damaged or destroyed, whichever is greater, or  
7 both imprisonment and a fine:

8 (i) The property has a value of \$20,000.00 or more.

9 (ii) The person violates subdivision (c) (i) and has 2 or more  
10 prior convictions for committing or attempting to commit a  
11 violation of this section. For purposes of this subparagraph,  
12 however, a prior conviction does not include a conviction for a  
13 violation or attempted violation of subdivision (a) or (b) (ii).

14 (e) If the violation results in physical injury to another  
15 individual, other than serious impairment of a body function, the  
16 person is guilty of a felony punishable by imprisonment for not  
17 more than 5 years or a fine of not more than \$20,000.00 or 3  
18 times the value of the research property damaged or destroyed,  
19 whichever is greater, or both imprisonment and a fine.

20 (f) If the violation causes serious impairment of a body  
21 function to another individual, the person is guilty of a felony  
22 punishable by imprisonment for not more than 15 years or a fine  
23 of not more than \$25,000.00 or 3 times the value of the research  
24 property damaged or destroyed, whichever is greater, or both  
25 imprisonment and a fine. As used in this subdivision, "serious  
26 impairment of a body function" includes, but is not limited to, 1  
27 or more of the following:

- 1           (i) The loss of a limb or use of a limb.
- 2           (ii) The loss of a hand, foot, finger, or thumb or use of a  
3 hand, foot, finger, or thumb.
- 4           (iii) The loss of an eye or ear or use of an eye or ear.
- 5           (iv) The loss or substantial impairment of a bodily  
6 function.
- 7           (v) A serious visible disfigurement.
- 8           (vi) A comatose state that lasts for more than 3 days.
- 9           (vii) Any measurable brain damage or mental impairment.
- 10          (viii) A skull fracture or other serious bone fracture.
- 11          (ix) A subdural hemorrhage or subdural hematoma.
- 12          (g) If the violation causes the death of another individual,  
13 the person is guilty of a felony and shall be imprisoned for not  
14 more than 15 years and may be fined not more than \$40,000.00 or 3  
15 times the value of the research property damaged or destroyed,  
16 whichever is greater. This subsection does not prohibit the  
17 person from being charged with, convicted of, or punished for any  
18 other violation of law arising out of the same criminal  
19 transaction as the violation of this section, in lieu of being  
20 charged with, convicted of, or punished for the violation of this  
21 section.
- 22          (3) The value of research property damaged or destroyed in  
23 separate incidents pursuant to a scheme or course of conduct  
24 within any 12-month period may be aggregated to determine the  
25 total value of research property damaged or destroyed.
- 26          (4) If the prosecuting attorney intends to seek an enhanced  
27 sentence based upon the defendant having 1 or more prior

1 convictions, the prosecuting attorney shall include on the  
2 complaint and information a statement listing the prior  
3 conviction or convictions. The existence of the defendant's  
4 prior conviction or convictions shall be determined by the court,  
5 without a jury, at sentencing or at a separate hearing for that  
6 purpose before sentencing. The existence of a prior conviction  
7 may be established by any evidence relevant for that purpose,  
8 including, but not limited to, 1 or more of the following:

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

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

12 (c) Information contained in a presentence report.

13 (d) The defendant's statement.

14 (5) If the sentence for a conviction under this section is  
15 enhanced by 1 or more prior convictions, those prior convictions  
16 shall not be used to further enhance the sentence for the  
17 conviction pursuant to section 10, 11, or 12 of chapter IX of the  
18 code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and  
19 769.12.

20 (6) The court shall order a person convicted of violating  
21 this section to pay restitution to the victim. The court may  
22 also order the person to pay 1 or more of the following:

23 (a) All research and development costs for the research  
24 property damaged or destroyed that arise out of the violation.

25 (b) The tuition costs and lost wages of a student conducting  
26 research regarding the research property damaged or destroyed or  
27 who is unable to conduct or continue research because of a loss

1 that arises out of the violation.

2 (7) As used in this section:

3 (a) "Research" means any lawful activity involving the use of  
4 animals, animal products, or other animal substances, intended  
5 for or used for scientific purposes, including, but not limited  
6 to, research, testing, and experimentation.

7 (b) "Research property" means all real, personal, and  
8 intellectual property related to research belonging to or  
9 conducted by a person, institution, or business entity.