

# HOUSE BILL No. 6090

December 13, 2012, Introduced by Rep. Brown and referred to the Committee on Judiciary.

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,  
and by adding section 377d.

**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~~  
7 ~~property of another person.~~  
8 ~~—— (c) Threatens, by word or act, to do an act described in~~

1 ~~subdivision (a) or (b), if there is reasonable cause to believe~~  
2 ~~that an act described in subdivision (a) or (b) will occur.~~

3 ~~—— (2) Ethnic intimidation is a felony punishable by imprisonment~~  
4 ~~for not more than 2 years, or by a fine of not more than \$5,000.00,~~  
5 ~~or both.~~

6 (1) A PERSON IS GUILTY OF A BIAS-MOTIVATED CRIME IF THE PERSON  
7 DEMONSTRATES THE SPECIFIC INTENT TO TARGET THE VICTIM OF A  
8 PREDICATE CRIME BASED IN WHOLE OR IN PART ON 1 OR MORE OF THE  
9 FOLLOWING CHARACTERISTICS, REGARDLESS OF WHETHER OR NOT THE  
10 PERPETRATOR'S BELIEF OR PERCEPTION OF THE CHARACTERISTIC IS  
11 CORRECT:

12 (A) DISABILITY.

13 (B) GENDER, GENDER IDENTITY, OR EXPRESSION OF GENDER.

14 (C) NATIONAL ORIGIN OR ANCESTRY.

15 (D) RACE, COLOR, OR ETHNICITY.

16 (E) RELIGION.

17 (F) SEXUAL ORIENTATION.

18 (G) STATUS AS A VETERAN.

19 (H) AGE.

20 (I) ASSOCIATION WITH A PERSON OR GROUP WITH 1 OR MORE OF THE  
21 CHARACTERISTICS IN SUBDIVISIONS (A) TO (H).

22 (2) A PREDICATE CRIME AGAINST PRIVATE PROPERTY IS BIAS-  
23 MOTIVATED IF THE PERPETRATOR DEMONSTRATES THE SPECIFIC INTENT TO  
24 TARGET THE PROPERTY BECAUSE OF A CHARACTERISTIC IN SUBSECTION (1)  
25 OF ANY INDIVIDUAL ASSOCIATED WITH THE PROPERTY.

26 (3) A PREDICATE CRIME AGAINST PUBLIC PROPERTY IS BIAS-  
27 MOTIVATED IF THE PERPETRATOR DEMONSTRATES THE SPECIFIC INTENT TO

1 INTIMIDATE OR HARASS 1 OR MORE INDIVIDUALS BECAUSE OF A LISTED  
2 CHARACTERISTIC.

3 (4) A BIAS-MOTIVATED CRIME IS A FELONY PUNISHABLE AS FOLLOWS:

4 (A) IF THE PREDICATE CRIME IS A MISDEMEANOR, BY IMPRISONMENT  
5 FOR NOT MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR  
6 BOTH.

7 (B) IF THE PREDICATE CRIME IS A FELONY, BY IMPRISONMENT WITHIN  
8 THE STATUTORY RANGE ESTABLISHED FOR THE PREDICATE CRIME EXCEPT THAT  
9 THE MINIMUM AND MAXIMUM RECOMMENDED SENTENCING RANGE UNDER THE  
10 SENTENCING GUIDELINES FOR THAT CRIME SHALL BE INCREASED BY 50% AS  
11 PROVIDED IN SECTION 21 OF CHAPTER XVII OF THE CODE OF CRIMINAL  
12 PROCEDURE, 1927 PA 175, MCL 777.21.

13 (5) A PERSON SHALL NOT BE CONVICTED OF BOTH THE LESSER  
14 INCLUDED PREDICATE CRIME AND A BIAS-MOTIVATED CRIME CHARGED UNDER  
15 THIS SECTION. THIS SECTION DOES NOT PROHIBIT A PERSON FROM BEING  
16 CHARGED WITH, CONVICTED OF, OR SENTENCED FOR ANY OTHER VIOLATION OF  
17 LAW ARISING OUT OF THE SAME CRIMINAL TRANSACTION.

18 (6) ~~(3)~~—Regardless of the existence or outcome of any criminal  
19 prosecution, a person who suffers injury to his or her person or  
20 damage to his or her property as a result of ~~ethnic intimidation~~ **A**  
21 **BIAS-MOTIVATED CRIME** may bring a civil cause of action against the  
22 person who commits the offense to secure an injunction, actual  
23 damages, including damages for emotional distress, or other  
24 appropriate relief. A plaintiff who prevails in a civil action  
25 brought pursuant to ~~UNDER~~ this section may recover both of the  
26 following:

27 (a) Damages in the amount of 3 times the actual damages

1 described in this subsection or \$2,000.00, whichever is greater.

2 (b) Reasonable attorney fees and costs.

3 (7) AS USED IN THIS SECTION:

4 (A) "DISABILITY" MEANS A DETERMINABLE PHYSICAL OR MENTAL  
5 CHARACTERISTIC OF AN INDIVIDUAL THAT MAY RESULT FROM DISEASE,  
6 INJURY, CONGENITAL CONDITION, OR FUNCTIONAL DISORDER THAT  
7 SUBSTANTIALLY LIMITS 1 OR MORE OF THE INDIVIDUAL'S MAJOR LIFE  
8 ACTIVITIES.

9 (B) "GENDER, GENDER IDENTITY, OR EXPRESSION OF GENDER" MEANS A  
10 PERSON'S ACTUAL OR PERCEIVED GENDER OR GENDER-RELATED APPEARANCE,  
11 SELF-IMAGE, BEHAVIOR, OR EXPRESSION, WHETHER OR NOT TRADITIONALLY  
12 ASSOCIATED WITH THE PERSON'S ASSIGNED SEX AT BIRTH.

13 (C) "PREDICATE CRIME" MEANS A VIOLATION OF ANY OF THE  
14 FOLLOWING, BUT NOT IF PROOF OF A CHARACTERISTIC IDENTIFIED IN  
15 SUBSECTION (1) (A) TO (H) IS AN ELEMENT OF THE VIOLATION:

- 16 (i) CHAPTER X.  
17 (ii) CHAPTER XI.  
18 (iii) CHAPTER XXXIII.  
19 (iv) CHAPTER XLV.  
20 (v) CHAPTER LVI.  
21 (vi) CHAPTER LXIV.  
22 (vii) CHAPTER LXXVI.  
23 (viii) CHAPTER LXXXIII-A.  
24 (ix) SECTIONS 223 TO 234C.  
25 (x) SECTION 240.  
26 (xi) SECTION 411A(2).  
27 (xii) SECTION 411H OR 411I.

1           (xiii) ANY OTHER PROVISION OF THIS ACT THAT INCLUDES AS AN  
2 ELEMENT OF THE OFFENSE THE SPECIFIC INTENT TO INTIMIDATE OR HARASS  
3 ANOTHER PERSON OR PERSONS.

4           (D) "SEXUAL ORIENTATION" MEANS AN ORIENTATION FOR  
5 HETEROSEXUALITY, HOMOSEXUALITY, OR BISEXUALITY OR A HISTORY OF OR  
6 IDENTIFICATION WITH THAT ORIENTATION.

7           SEC. 377D. FOR PURPOSES OF SECTIONS 377A TO 377C, 380, 383,  
8 AND 387, A PERSON WHO, WITH INTENT TO INTIMIDATE, DOES ANY OF THE  
9 FOLLOWING ON PROPERTY WITHOUT THE EXPRESS PERMISSION OF THE  
10 PROPERTY OWNER IS CONSIDERED TO HAVE INJURED OR ALTERED THAT  
11 PROPERTY, WHETHER OR NOT ANY PHYSICAL DAMAGE IS CAUSED:

12           (A) HANGS, AFFIXES, OR OTHERWISE PLACES A NOOSE ON THE  
13 PROPERTY.

14           (B) BURNS, OR PLACES WITH INTENT TO BURN, A CROSS OR CROSS-  
15 SHAPED OBJECT ON THE PROPERTY.