

# SENATE BILL No. 973

May 3, 2018, Introduced by Senator JONES and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 478a (MCL 750.478a), as added by 1998 PA 360.

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

1           Sec. 478a. (1) A person shall not attempt to intimidate,  
2 hinder, **THREATEN**, or obstruct a public officer or public employee  
3 or a peace officer in the discharge of his or her official duties  
4 **WITH THE INTENT TO INTERFERE WITH THE LEGAL PROCESS** by a use of  
5 unauthorized process.

6           (2) **THE PROHIBITION UNDER SUBSECTION (1) INCLUDES, BUT IS NOT**  
7 **LIMITED TO, ALL OF THE FOLLOWING CONDUCT:**

8           (A) **THREATENING TO HARM OR CAUSE HARM TO A PUBLIC OFFICER,**  
9 **PUBLIC EMPLOYEE, OR PEACE OFFICER, OR TO A MEMBER OF A PUBLIC**

1 OFFICER'S, PUBLIC EMPLOYEE'S, OR PEACE OFFICER'S IMMEDIATE FAMILY.

2 (B) USING FORCE AGAINST, THREATENING TO USE FORCE AGAINST, OR  
3 DECEIVING A PUBLIC OFFICER, PUBLIC EMPLOYEE, OR PEACE OFFICER, OR A  
4 MEMBER OF A PUBLIC OFFICER'S, PUBLIC EMPLOYEE'S, OR PEACE OFFICER'S  
5 IMMEDIATE FAMILY.

6 (C) OFFERING, CONVEYING, OR AGREEING TO CONVEY ANY DIRECT OR  
7 INDIRECT BENEFIT UPON A PUBLIC OFFICER, PUBLIC EMPLOYEE, OR PEACE  
8 OFFICER, OR A MEMBER OF A PUBLIC OFFICER'S, PUBLIC EMPLOYEE'S, OR  
9 PEACE OFFICER'S IMMEDIATE FAMILY.

10 (D) ENGAGING IN CONDUCT REASONABLY CALCULATED TO HARASS, HARM,  
11 INTIMIDATE, OR INFLUENCE A PUBLIC OFFICER, PUBLIC EMPLOYEE, OR  
12 PEACE OFFICER, OR A MEMBER OF A PUBLIC OFFICER'S, PUBLIC  
13 EMPLOYEE'S, OR PEACE OFFICER'S IMMEDIATE FAMILY, INCLUDING BY  
14 DISSEMINATING OR MAKING AVAILABLE BY ANY MEANS, INCLUDING THROUGH  
15 SOCIAL MEDIA, PERSONAL INFORMATION ABOUT A PUBLIC OFFICER, PUBLIC  
16 EMPLOYEE, OR PEACE OFFICER, OR A MEMBER OF A PUBLIC OFFICER'S,  
17 PUBLIC EMPLOYEE'S, OR PEACE OFFICER'S IMMEDIATE FAMILY. HOWEVER,  
18 THIS SUBDIVISION DOES NOT PRECLUDE THE DISSEMINATION OF PUBLICLY  
19 AVAILABLE INFORMATION, SO LONG AS THAT PUBLICLY AVAILABLE  
20 INFORMATION IS NOT USED IN AN INTIMIDATING, THREATENING, OR HARMFUL  
21 MANNER.

22 (3) ~~(2)~~—Except as provided in subsection ~~(3)~~, ~~(4)~~, a person  
23 who violates subsection (1) is guilty of a misdemeanor punishable  
24 by imprisonment for not more than 2 years or a fine of not more  
25 than \$1,000.00, or both.

26 (4) ~~(3)~~—A person who violates subsection (1) after 1 or more  
27 prior convictions for violating subsection (1) is guilty of a

1 felony punishable by imprisonment for not more than 4 years or a  
2 fine of not more than \$2,000.00, or both.

3 (5) ~~(4)~~—This section does not apply to a lien authorized under  
4 a statute of this state.

5 (6) ~~(5)~~—This section does not prohibit a person from being  
6 charged with, convicted of, or sentenced for any other violation of  
7 law that individual commits while violating this section.

8 (7) ~~(6)~~—This section does not prohibit individuals from  
9 assembling lawfully or lawful free expression of opinions or  
10 designation of group affiliation or association.

11 (8) ~~(7)~~—As used in this section:

12 (A) **"IMMEDIATE FAMILY" INCLUDES THE SPOUSE AND ANY NATURAL OR**  
13 **ADOPTED CHILD OF A PUBLIC OFFICER, PUBLIC EMPLOYEE, OR PEACE**  
14 **OFFICER.**

15 (B) ~~(a)~~—"Lawful tribunal" means a tribunal created,  
16 established, authorized, or sanctioned by law or a tribunal of a  
17 private organization, association, or entity to the extent that the  
18 organization, association, or entity seeks in a lawful manner to  
19 affect only the rights or property of persons who are members or  
20 associates of that organization, association, or entity.

21 (C) ~~(b)~~—"Legal process" means a **FINDING, DECISION, RULING,**  
22 **ORDER, JUDGMENT, OR DECREE ASSIGNED TO A PUBLIC OFFICER OR PUBLIC**  
23 **EMPLOYEE, OR A** summons, complaint, pleading, writ, warrant,  
24 injunction, notice, subpoena, lien, order, or other document issued  
25 or entered by or on behalf of a court or lawful tribunal or  
26 lawfully filed with or recorded by a governmental agency that is  
27 used as a means of exercising or acquiring jurisdiction over a

1 person or property, to assert or give notice of a legal claim  
2 against a person or property, or to direct persons to take or  
3 refrain from an action.

4 (D) ~~(e)~~—"Public employee" means an employee of this state, an  
5 employee of a city, village, township, or county of this state, or  
6 an employee of a department, board, agency, institution,  
7 commission, authority, division, council, college, university,  
8 court, school district, intermediate school district, special  
9 district, or other public entity of this state or of a city,  
10 village, township, or county in this state, but does not include a  
11 person whose employment results from election or appointment.

12 (E) ~~(d)~~—"Public officer" means a person who is elected or  
13 appointed to any of the following:

14 (i) An office established by the state constitution of 1963.

15 (ii) A public office of a city, village, township, or county  
16 in this state.

17 (iii) A department, board, agency, institution, commission,  
18 court, authority, division, council, college, university, school  
19 district, intermediate school district, special district, or other  
20 public entity of this state or a city, village, township, or county  
21 in this state.

22 (F) ~~(e)~~—"Unauthorized process" means either of the following:

23 (i) A document simulating legal process that is prepared or  
24 issued by or on behalf of an entity that purports or represents  
25 itself to be a lawful tribunal or a court, public officer, or other  
26 agency created, established, authorized, or sanctioned by law but  
27 that is not a lawful tribunal or a court, public officer, or other

1 agency created, established, authorized, or sanctioned by law.

2 (ii) A document that would otherwise be legal process except  
3 that it was not issued or entered by or on behalf of a court or  
4 lawful tribunal or lawfully filed with or recorded by a  
5 governmental agency as required by law. However, this subparagraph  
6 does not apply to a document that would otherwise be legal process  
7 but for 1 or more technical defects, including, but not limited to,  
8 errors involving names, spelling, addresses, or time of issue or  
9 filing or other defects that do not relate to the substance of the  
10 claim or action underlying the document.

11 Enacting section 1. This amendatory act takes effect 90 days  
12 after the date it is enacted into law.