

SENATE BILL NO. 427

August 20, 2019, Introduced by Senator LUCIDO and referred to the Committee on Judiciary and Public Safety.

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

1 unauthorized process.

2 (2) The prohibition under subsection (1) includes, but is not
3 limited to, all of the following conduct:

4 (a) Threatening to harm or cause harm to a public officer,
5 public employee, or peace officer, or to a member of a public
6 officer's, public employee's, or peace officer's immediate family.

7 (b) Using force against, threatening to use force against, or
8 deceiving a public officer, public employee, or peace officer, or a
9 member of a public officer's, public employee's, or peace officer's
10 immediate family.

11 (c) Offering, conveying, or agreeing to convey any direct or
12 indirect benefit upon a public officer, public employee, or peace
13 officer, or a member of a public officer's, public employee's, or
14 peace officer's immediate family.

15 (d) Engaging in conduct reasonably calculated to harass, harm,
16 intimidate, or influence a public officer, public employee, or
17 peace officer, or a member of a public officer's, public
18 employee's, or peace officer's immediate family, including by
19 disseminating or making available by any means, including through
20 social media, personal information about a public officer, public
21 employee, or peace officer, or a member of a public officer's,
22 public employee's, or peace officer's immediate family. However,
23 this subdivision does not preclude the dissemination of publicly
24 available information, so long as that publicly available
25 information is not used in an intimidating, threatening, or harmful
26 manner.

27 (3) ~~(2)~~ Except as provided in subsection ~~(3)~~, (4), a person
28 who violates subsection (1) is guilty of a misdemeanor punishable
29 by imprisonment for not more than 2 years or a fine of not more

1 than \$1,000.00, or both.

2 (4) ~~(3)~~—A person who violates subsection (1) after 1 or more
3 prior convictions for violating subsection (1) is guilty of a
4 felony punishable by imprisonment for not more than 4 years or a
5 fine of not more than \$2,000.00, or both.

6 (5) ~~(4)~~—This section does not apply to a lien authorized under
7 a statute of this state.

8 (6) ~~(5)~~—This section does not prohibit a person from being
9 charged with, convicted of, or sentenced for any other violation of
10 law that individual commits while violating this section.

11 (7) ~~(6)~~—This section does not prohibit individuals from
12 assembling lawfully or lawful free expression of opinions or
13 designation of group affiliation or association.

14 (8) ~~(7)~~—As used in this section:

15 (a) **"Immediate family" includes the spouse and any natural or**
16 **adopted child of a public officer, public employee, or peace**
17 **officer.**

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

24 (c) ~~(b)~~—"Legal process" means a **finding, decision, ruling,**
25 **order, judgment, or decree assigned to a public officer or public**
26 **employee, or a summons, complaint, pleading, writ, warrant,**
27 **injunction, notice, subpoena, lien, order, or other document issued**
28 **or entered by or on behalf of a court or lawful tribunal or**
29 **lawfully filed with or recorded by a governmental agency that is**

1 used as a means of exercising or acquiring jurisdiction over a
2 person or property, to assert or give notice of a legal claim
3 against a person or property, or to direct persons to take or
4 refrain from an action.

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

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

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

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

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

23 **(f)** ~~(e)~~—"Unauthorized process" means either of the following:

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

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

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