

# SENATE BILL No. 1455

September 9, 2008, Introduced by Senators CLARKE, SCOTT, CLARK-COLEMAN, GLEASON, SCHAUER, SWITALSKI, WHITMER, OLSHOVE, CHERRY and BARCIA 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 SELECTS THE TARGET OF A PREDICATE CRIME BASED ON 1 OR MORE OF THE  
8 FOLLOWING CHARACTERISTICS, REGARDLESS OF WHETHER OR NOT THE  
9 PERPETRATOR'S BELIEF OR PERCEPTION OF THE CHARACTERISTIC IS  
10 CORRECT:

11 (A) DISABILITY.

12 (B) GENDER.

13 (C) NATIONAL ORIGIN OR ANCESTRY.

14 (D) RACE, COLOR, OR ETHNICITY.

15 (E) RELIGION.

16 (F) SEXUAL ORIENTATION, GENDER IDENTITY, OR EXPRESSION OF  
17 GENDER.

18 (G) ASSOCIATION WITH A PERSON OR GROUP WITH 1 OR MORE OF THE  
19 CHARACTERISTICS IN SUBDIVISIONS (A) TO (F).

20 (2) A PREDICATE CRIME AGAINST PRIVATE PROPERTY IS BIAS-  
21 MOTIVATED IF THE PERPETRATOR TARGETS THE PROPERTY BECAUSE OF A  
22 LISTED CHARACTERISTIC OF ANY INDIVIDUAL ASSOCIATED WITH THE  
23 PROPERTY.

24 (3) A PREDICATE CRIME AGAINST PUBLIC PROPERTY IS BIAS-  
25 MOTIVATED IF THE PERPETRATOR DEMONSTRATES THE SPECIFIC INTENT TO  
26 INTIMIDATE OR HARASS 1 OR MORE INDIVIDUALS BECAUSE OF A LISTED  
27 CHARACTERISTIC.

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

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

5 (B) IF THE PREDICATE CRIME IS A FELONY, BY IMPRISONMENT WITHIN  
6 THE STATUTORY RANGE ESTABLISHED FOR THE PREDICATE CRIME EXCEPT THAT  
7 THE MINIMUM AND MAXIMUM RECOMMENDED SENTENCING RANGE UNDER THE  
8 SENTENCING GUIDELINES FOR THAT CRIME SHALL BE INCREASED BY 50%.

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

14 (6) ~~(3)~~ Regardless of the existence or outcome of any criminal  
15 prosecution, a person who suffers injury to his or her person or  
16 damage to his or her property as a result of ~~ethnic intimidation~~ A  
17 BIAS-MOTIVATED CRIME may bring a civil cause of action against the  
18 person who commits the offense to secure an injunction, actual  
19 damages, including damages for emotional distress, or other  
20 appropriate relief. A plaintiff who prevails in a civil action  
21 brought pursuant to this section may recover both of the following:

22 (a) Damages in the amount of 3 times the actual damages  
23 described in this subsection or \$2,000.00, whichever is greater.

24 (b) Reasonable attorney fees and costs.

25 (7) AS USED IN THIS SECTION:

26 (A) "DISABILITY" MEANS A DETERMINABLE PHYSICAL OR MENTAL  
27 CHARACTERISTIC OF AN INDIVIDUAL THAT MAY RESULT FROM DISEASE,

1 INJURY, CONGENITAL CONDITION, OR FUNCTIONAL DISORDER THAT  
2 SUBSTANTIALLY LIMITS 1 OR MORE OF THE INDIVIDUAL'S MAJOR LIFE  
3 ACTIVITIES.

4 (B) "PREDICATE CRIME" MEANS A VIOLATION OF ANY OF THE  
5 FOLLOWING, BUT NOT IF PROOF OF A CHARACTERISTIC IDENTIFIED IN  
6 SUBSECTION (1) (A) TO (F) IS AN ELEMENT OF THE VIOLATION:

7 (i) CHAPTER X.

8 (ii) CHAPTER XI.

9 (iii) CHAPTER XLV.

10 (iv) CHAPTER XXXIII.

11 (v) CHAPTER LVI.

12 (vi) CHAPTER LXIV.

13 (vii) CHAPTER LXXVI.

14 (viii) SECTIONS 223 TO 234C.

15 (ix) SECTION 240.

16 (x) SECTION 411A(2).

17 (xi) SECTION 411H OR 411I.

18 (xii) CHAPTER LXXXIII-A.

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

22 SEC. 377D. FOR PURPOSES OF SECTIONS 377A TO 377C, 380, 383,  
23 AND 387, A PERSON WHO DOES ANY OF THE FOLLOWING TO THE PROPERTY OF  
24 ANOTHER PERSON IS CONSIDERED TO HAVE INJURED OR ALTERED THAT  
25 PROPERTY, WHETHER OR NOT ANY PHYSICAL DAMAGE IS CAUSED:

26 (A) HANGS OR OTHERWISE DISPLAYS A NOOSE ON THE PROPERTY.

27 (B) BURNS, OR ERECTS WITH INTENT TO BURN, A CROSS OR CROSS-

1 SHAPED OBJECT ON THE PROPERTY.

2 (C) PLACES OR DISPLAYS ON THE PROPERTY AN OBJECT OR SYMBOL  
3 THAT IS HISTORICALLY OR GENERALLY UNDERSTOOD AS INTENDED TO  
4 INTIMIDATE, THREATEN, OR HARASS.