

# HOUSE BILL No. 5640

March 26, 1990, Introduced by Reps. Martin, DeMars, Stupak, Kulchitsky, Wartner, Middaugh, Stacey, Gnodtke, Gilmer, Nye, Weeks, Sikkema, Dolan, Runco, Van Regenmorter, London, Jaye, Miller, Willis Bullard and Krause and referred to the Committee on Judiciary.

A bill to amend sections 479 and 479a of Act No. 328 of the Public Acts of 1931, entitled "The Michigan penal code," section 479a as amended by Act No. 407 of the Public Acts of 1988, being sections 750.479 and 750.479a of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 479 and 479a of Act No. 328 of the  
2 Public Acts of 1931, section 479a as amended by Act No. 407 of  
3 the Public Acts of 1988, being sections 750.479 and 750.479a of  
4 the Michigan Compiled Laws, are amended to read as follows:

5 Sec. 479. ~~Resisting, etc., officer in discharge of~~  
6 ~~duty Any person who shall knowingly and wilfully obstruct,~~  
7 ~~resist or oppose any sheriff, coroner, township treasurer,~~  
8 ~~constable or other officer or person duly authorized, in serving,~~

~~1 or attempting to serve or execute any process, rule or order made~~  
~~2 or issued by lawful authority, or who shall resist any officer in~~  
~~3 the execution of any ordinance, by law, or any rule, order or~~  
~~4 resolution made, issued, or passed by the common council of any~~  
~~5 city board of trustees, or common council or village council of~~  
~~6 any incorporated village, or township board of any township or~~  
~~7 who shall assault, beat or wound any sheriff, coroner, township~~  
~~8 treasurer, constable or other officer duly authorized, while~~  
~~9 serving, or attempting to serve or execute any such process, rule~~  
~~10 or order, or for having served, or attempted to serve or execute~~  
~~11 the same, or who shall so obstruct, resist, oppose, assault, beat~~  
~~12 or wound any of the above named officers, or any other person or~~  
~~13 persons authorized by law to maintain and preserve the peace, in~~  
~~14 their lawful acts, attempts and efforts to maintain, preserve and~~  
~~15 keep the peace, shall be guilty of a misdemeanor, punishable by~~  
~~16 imprisonment in the state prison not more than 2 years, or by a~~  
~~17 fine of not more than 1,000 dollars.~~ (1) EXCEPT AS PROVIDED IN  
18 SUBSECTION (2), A PERSON WHO KNOWINGLY AND WILLFULLY DOES 1 OR  
19 MORE OF THE FOLLOWING IS GUILTY OF A MISDEMEANOR PUNISHABLE BY  
20 IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN  
21 \$1,000.00, OR BOTH:

22 (A) OBSTRUCTS, RESISTS, OR OPPOSES AN OFFICER IN SERVING OR  
23 ATTEMPTING TO SERVE OR EXECUTE ANY PROCESS, RULE, OR ORDER MADE  
24 OR ISSUED BY LAWFUL AUTHORITY.

25 (B) RESISTS AN OFFICER IN THE EXECUTION OF AN ORDINANCE,  
26 BYLAW, RULE, ORDER, OR RESOLUTION MADE, ISSUED, OR PASSED BY THE  
27 GOVERNING BODY OF A CITY, VILLAGE, OR TOWNSHIP.

1 (C) OBSTRUCTS, RESISTS, OR OPPOSES AN OFFICER WHO IS ACTING  
2 OR ATTEMPTING TO ACT TO MAINTAIN, PRESERVE, OR KEEP THE PEACE.

3 (2) A PERSON WHO KNOWINGLY AND WILLFULLY DOES EITHER OF THE  
4 FOLLOWING IS GUILTY OF A FELONY AND SHALL BE PUNISHED BY IMPRIS-  
5 ONMENT FOR A MANDATORY MINIMUM TERM OF NOT LESS THAN 1 YEAR AND A  
6 MAXIMUM TERM OF NOT MORE THAN 4 YEARS, AND BY A FINE OF NOT MORE  
7 THAN \$10,000.00, TOGETHER WITH THE COSTS OF THE PROSECUTION:

8 (A) ASSAULTS, BEATS, OR WOUNDS AN OFFICER WHILE THE OFFICER  
9 IS PERFORMING OR ATTEMPTING TO PERFORM, OR FOR HAVING PERFORMED  
10 OR ATTEMPTED TO PERFORM, A DUTY DESCRIBED IN SUBSECTION (1)(A) TO  
11 (C).

12 (B) ASSAULTS, BEATS, OR WOUNDS A STATE OR LOCAL CORRECTIONAL  
13 OFFICER WHILE THE OFFICER IS IN THE LAWFUL PERFORMANCE OF HIS OR  
14 HER DUTY.

15 (3) AS USED IN THIS SECTION:

16 (A) "CORRECTIONAL FACILITY" MEANS EITHER OF THE FOLLOWING:

17 (i) A FACILITY OR INSTITUTION THAT HOUSES AN INMATE POPULA-  
18 TION UNDER THE JURISDICTION OF THE DEPARTMENT OF CORRECTIONS.

19 (ii) A MUNICIPAL OR COUNTY JAIL, WORK CAMP, LOCKUP, HOLDING  
20 CENTER, HALFWAY HOUSE, COMMUNITY CORRECTIONS CENTER, OR ANY OTHER  
21 FACILITY MAINTAINED BY A MUNICIPALITY OR COUNTY THAT HOUSES ADULT  
22 PRISONERS.

23 (B) "OFFICER" MEANS A PEACE OFFICER, CORONER, TOWNSHIP TREA-  
24 SURER, CONSTABLE, OR OTHER PUBLIC OFFICER ACTING IN THE LAWFUL  
25 PERFORMANCE OF HIS OR HER DUTY.

26 (C) "STATE OR LOCAL CORRECTIONAL OFFICER" MEANS ANY PERSON  
27 EMPLOYED IN A CORRECTIONAL FACILITY AS A CORRECTIONAL OFFICER BY

1 THE STATE DEPARTMENT OF CORRECTIONS OR BY A LOCAL UNIT OF  
2 GOVERNMENT.

3       Sec. 479a. (1) A driver of a motor vehicle who is given by  
4 hand, voice, emergency light, or siren a visual or audible signal  
5 by a police or conservation officer, acting in the lawful per-  
6 formance of his or her duty, directing the driver to bring his or  
7 her motor vehicle to a stop, and who willfully fails to obey that  
8 direction by increasing the speed of the vehicle, extinguishing  
9 the lights of the vehicle, or otherwise attempting to flee or  
10 elude the police or conservation officer, is guilty of a misde-  
11 meanor, and shall be punished by imprisonment for not less than  
12 30 days ~~nor~~ OR more than 1 year, and, in addition, may be fined  
13 not more than \$1,000.00 and may be ordered to pay the costs of  
14 prosecution. The court may depart from the minimum term of  
15 imprisonment authorized under this subsection if the court finds  
16 on the record that there are substantial and compelling reasons  
17 to do so and if the court imposes community service as a part of  
18 the sentence.

19       (2) Subsection (1) does not apply unless the police or con-  
20 servation officer giving the signal is in uniform, and the vehi-  
21 cle driven by the police or conservation officer is identified as  
22 an official police or department of natural resources vehicle.

23       (3) A person who ~~forcibly~~ assaults or commits a bodily  
24 injury ~~which~~ THAT requires medical care or attention upon a  
25 peace or police officer of this state while the peace or police  
26 officer is engaged in making a lawful arrest OR IN THE LAWFUL  
27 DISCHARGE OF HIS OR HER DUTY, knowing him or her to be a peace or

1 police officer, is guilty of a ~~misdemeanor, punishable by a fine~~  
2 ~~of not more than \$1,000.00, or by imprisonment for not more than~~  
3 ~~2 years, or both~~ FELONY AND SHALL BE PUNISHED BY IMPRISONMENT  
4 FOR A MANDATORY MINIMUM TERM OF NOT LESS THAN 1 YEAR AND A MAXI-  
5 MUM TERM OF NOT MORE THAN 4 YEARS AND BY A FINE OF NOT MORE THAN  
6 \$10,000.00, TOGETHER WITH THE COSTS OF THE PROSECUTION.

7 (4) A person who violates subsection (1) within 5 years of a  
8 prior conviction of a violation of subsection (1) is guilty of a  
9 felony, and shall be punished by imprisonment for a mandatory  
10 minimum term of not less than 1 year and a maximum term of not  
11 more than 4 years, and by a fine of not more than \$10,000.00,  
12 together with the costs of the prosecution.

13 (5) The driver of a motor vehicle who attempts to flee or  
14 elude a police or conservation officer in violation of subsection  
15 (1) and while attempting to so flee or elude causes serious  
16 bodily injury to a person, is guilty of a felony, and shall be  
17 punished by imprisonment for a minimum term of not less than 1  
18 year and a maximum term of not more than 4 years, and by a fine  
19 of not more than \$10,000.00, together with the costs of the  
20 prosecution. The court may depart from the minimum term of  
21 imprisonment authorized under this subsection if the court finds  
22 on the record that there are substantial and compelling reasons  
23 to do so and if the court imposes community service as a part of  
24 the sentence.

25 (6) As part of the sentence for a violation of  
26 subsection (1), (4), or (5), the court shall order the secretary  
27 of state to suspend the person's operator's or chauffeur's

1 license for a period of 1 year. The person shall not be eligible  
2 to receive a restricted license during the first 6 months of the  
3 period of suspension. If a term of imprisonment is served as a  
4 part of the sentence, the period of suspension of the person's  
5 license shall begin after the completion of the term of  
6 imprisonment.

7       (7) As used in this section, "serious bodily injury" means  
8 serious impairment of a body function or permanent serious  
9 disfigurement.