

PROHIBIT CERTAIN ABUSES OF PROCESS

House Bill 4482

Sponsor: Rep. David Gubow

Committee: Judiciary

Complete to 8-26-97

A SUMMARY OF HOUSE BILL 4482 AS INTRODUCED 3-13-97

House Bill 4482 would amend the Michigan Penal Code to prohibit and establish punishments for impersonating or interfering with public officials, use of unauthorized process, and the creation of unauthorized courts or other legal tribunals. The bill would also specify a penalty for the existing crime of serving a notice or demand of payment that simulates legal process. The bill would uniformly define "legal process" and "unauthorized process" for each of the crimes. "Legal process" would mean a summons, complaint, pleading, writ, warrant, injunction, notice, subpoena, lien, order, or other document issued or entered by or on behalf of a court or lawful tribunal or filed with or recorded by a governmental agency that is used as a means of exercising or acquiring jurisdiction over a person or property, to assert or give notice of a legal claim against a person or property, or to direct persons to take or refrain from an action. "Unauthorized process" would mean either a document that simulated legal process that was prepared or issued by or on behalf of an entity that purports or represents itself to be a court, tribunal, public officials, or other agency but is not authorized by law; or a document that would otherwise be legal process except that it was not issued or entered by or on behalf of a court or lawful tribunal or filed with or recorded by a governmental agency as required by law. The provisions of the bill would not bar a person who had violated the bill's provisions from being charged with, convicted of, or sentenced for a violation of any other crime committed during the violation of the bill's provisions.

Impersonation of public officials. A person who represented himself or herself as, or falsely acted as, a public official or employee and also prepared, served, or otherwise acted to further the operation of any legal process or unauthorized process that affected or purported to affect people or property would be guilty of a misdemeanor and could be punished by imprisonment for not more than one year, a fine of not more than \$500, or both.

Fraudulent process. Current law prohibits using a simulation of legal process to demand payment from a debtor by serving a debtor with a notice or demand of payment that is not authorized by statute or by an appropriate court. The bill would expand this to prohibit a person from obtaining, preparing, issuing, or otherwise acting to further the operation of any legal process where the person knows or has reason to know that any document in that legal process, the basis of the action, or any of the proceedings are fraudulent. Any action taken to further the operation of any unauthorized process would also be prohibited. Violation of any of these prohibitions would be a misdemeanor punishable by not more than 90 days imprisonment, a fine of not more than \$100, or both. The bill's provisions would not bar a person from being charged with, convicted of, or sentenced for any other crime committed during the violation of the bill's provisions.

Interference with public officials. The bill would prohibit the use of unauthorized process to attempt to intimidate, hinder, or obstruct a public official or employee or a peace officer in the discharge of his or her official duties. Violation of this provision would be a misdemeanor and would be punishable by not more than two years in prison, a fine of not more than \$1,000, or both.

Unauthorized courts or tribunals. The bill would prohibit serving on or establishing a court or tribunal intended to affect the legal rights of persons, where that court or tribunal was not established by statute, the state constitution, or the United States constitution. Violation of this prohibition would be a felony and would be punishable by imprisonment for not more than four years, a fine of not more than \$2,000, or both.

MCL 750.217b et al.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.