

Act No. 360
Public Acts of 1998
Approved by the Governor
October 20, 1998
Filed with the Secretary of State
October 20, 1998
EFFECTIVE DATE: January 1, 1999

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Rep. Gubow

ENROLLED HOUSE BILL No. 4482

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 368 (MCL 750.368) and by adding sections 217c and 478a.

The People of the State of Michigan enact:

Sec. 217c. (1) A person shall not impersonate, falsely represent himself or herself as, or falsely act as a public officer or public employee and prepare, issue, serve, execute, or otherwise act to further the operation of any legal process or unauthorized process that affects or purports to affect persons or property.

(2) Except as provided in subsection (3) or (4), a person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$500.00, or both.

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

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

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

(6) This section does not prohibit individuals from assembling lawfully or lawful free expression of opinions or designation of group affiliation or association.

(7) As used in this section:

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

(b) "Legal process" means 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 lawfully 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.

(c) “Public employee” means an employee of this state, an employee of a city, village, township, or county of this state, or an employee of a department, board, agency, institution, commission, authority, division, council, college, university, court, school district, intermediate school district, special district, or other public entity of this state or of a city, village, township, or county in this state, but does not include a person whose employment results from election or appointment.

(d) “Public officer” means a person who is elected or appointed to any of the following:

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

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

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

(e) “Unauthorized process” means either of the following:

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

(ii) 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 lawfully filed with or recorded by a governmental agency as required by law.

Sec. 368. (1) A person or agent of a person shall not by personal service, mail, or otherwise serve or cause to be served upon a debtor a notice or demand of payment of money on behalf of a creditor that is not authorized by a statute or court of this state and that simulates in form and substance legal process issued out of a court of this state.

(2) A person shall not prepare, issue, serve, execute, or otherwise act to further the operation of any unauthorized process.

(3) Except as provided in subsection (4) or (5), a person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

(4) A person who violates subsection (2) after a prior conviction for violating this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

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

(6) This section does not apply to a lien authorized under a statute of this state.

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

(8) This section does not prohibit individuals from assembling lawfully or lawful free expression of opinions or designation of group affiliation or association.

(9) As used in this section:

(a) “Lawful tribunal” means a tribunal created, established, authorized, or sanctioned by law or a tribunal of a private organization, association, or entity to the extent that the organization, association, or entity seeks in a lawful manner to affect only the rights or property of persons who are members or associates of that organization, association, or entity.

(b) “Legal process” means 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 lawfully 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.

(c) “Public employee” means an employee of this state, an employee of a city, village, township, or county of this state, or an employee of a department, board, agency, institution, commission, authority, division, council, college, university, court, school district, intermediate school district, special district, or other public entity of this state or of a city, village, township, or county in this state, but does not include a person whose employment results from election or appointment.

(d) “Public officer” means a person who is elected or appointed to any of the following:

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

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

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

(e) “Unauthorized process” means either of the following:

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

(ii) 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 lawfully filed with or recorded by a governmental agency as required by law. However, this subparagraph does not apply to a document that would otherwise be legal process but for 1 or more technical defects, including, but not limited to, errors involving names, spelling, addresses, or time of issue or filing or other defects that do not relate to the substance of the claim or action underlying the document.

Sec. 478a. (1) A person shall not attempt to intimidate, hinder, or obstruct a public officer or public employee or a peace officer in the discharge of his or her official duties by a use of unauthorized process.

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

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

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

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

(6) This section does not prohibit individuals from assembling lawfully or lawful free expression of opinions or designation of group affiliation or association.

(7) As used in this section:

(a) “Lawful tribunal” means a tribunal created, established, authorized, or sanctioned by law or a tribunal of a private organization, association, or entity to the extent that the organization, association, or entity seeks in a lawful manner to affect only the rights or property of persons who are members or associates of that organization, association, or entity.

(b) “Legal process” means 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 lawfully 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.

(c) “Public employee” means an employee of this state, an employee of a city, village, township, or county of this state, or an employee of a department, board, agency, institution, commission, authority, division, council, college, university, court, school district, intermediate school district, special district, or other public entity of this state or of a city, village, township, or county in this state, but does not include a person whose employment results from election or appointment.

(d) “Public officer” means a person who is elected or appointed to any of the following:

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

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

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

(e) “Unauthorized process” means either of the following:

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

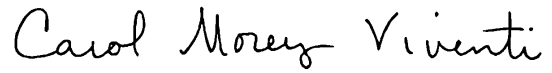
(ii) A document that would otherwise be legal process except that it was not issued or entered by or on behalf of a court or lawful tribunal or lawfully filed with or recorded by a governmental agency as required by law. However, this subparagraph does not apply to a document that would otherwise be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

Enacting section 1. This amendatory act takes effect January 1, 1999.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved -----

Governor.