

SUBSTITUTE FOR
HOUSE BILL NO. 4642

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 528a (MCL 750.528a), as added by 1986
PA 113.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 528a. (1) As used in this section:
- 2 (a) "Civil disorder" means any public disturbance involving
- 3 the use of any firearm, explosive, or incendiary device by 3 or
- 4 more assembled persons ~~which~~ THAT causes an immediate danger to
- 5 ~~—~~ ANY PROPERTY OR PERSON or ~~which~~ THAT results in damage or
- 6 injury to ~~—~~ any property or person.
- 7 (b) "Explosive or incendiary device" means 1 OR MORE OF THE
- 8 FOLLOWING:
- 9 (i) Dynamite, gunpowder, or ANY other similarly explosive
- 10 substance.

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1 (ii) ~~Any~~ A bomb, grenade, missile, or similar device
2 designed to expand suddenly and release internal energy resulting
3 in an explosion.

4 (iii) ~~Any~~ A incendiary bomb or grenade, fire bomb, or sim-
5 ilar device designed to ignite, including any device ~~which~~ THAT
6 consists of or includes a breakable container containing a flam-
7 mable liquid or compound and a wick composed of any material
8 ~~which~~ THAT, if ignited, is capable of igniting the flammable
9 liquid or compound; and ~~which~~ THAT may be carried or thrown by
10 a person.

11 (c) "Firearm" means ~~any~~ 1 OR MORE OF THE FOLLOWING:

12 (i) A weapon from which a dangerous projectile may be pro-
13 pelled by using explosives, gas, or air as a means of propulsion.
14 ~~any~~

15 (ii) A weapon ~~which~~ THAT may be readily converted to expel
16 ~~any~~ A projectile by the action of an explosive. ~~, or the~~

17 (iii) THE frame or receiver of ~~such~~ a ~~firearm or~~ weapon
18 ~~,~~ DESCRIBED IN SUBPARAGRAPH (i) OR (ii) except ~~any~~ A
19 smooth-bore rifle or handgun designed and manufactured exclu-
20 sively for propelling BB's not exceeding .177 caliber by means of
21 A spring, gas, or air.

22 (d) "Law enforcement officer" means any of the following:

23 (i) ~~Every~~ A sheriff or sheriff's deputy. ~~;~~

24 (ii) A village marshal or township constable. ~~;~~ ~~officer of~~
25 ~~the police department of any~~

26 (iii) A city, village, or township ~~;~~ ~~any officer of the~~
27 POLICE OFFICER.

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1 (iv) A Michigan state police ~~;~~ ~~or any peace~~ OFFICER.

2 (v) A PEACE officer who is trained and certified ~~pursuant~~
3 ~~to Act No. 203 of the Public Acts of 1965, being sections 28.601~~
4 ~~to 28.616 of the Michigan Compiled Laws~~ UNDER THE COMMISSION ON
5 LAW ENFORCEMENT STANDARDS ACT, 1965 PA 203, MCL 28.601 TO
6 28.616.

7 (vi) ~~(ii)~~ Any officer or employee of the United States,
8 its possessions, or territories who is authorized to enforce the
9 laws of the United States, its possessions, or its territories.

10 (vii) ~~(iii) Any~~ A member of the national guard, coast
11 guard, military reserve, or the armed forces of the United States
12 when acting in his or her official capacity.

13 (2) A person shall not, IN PERSON, OR THROUGH THE USE OF ANY
14 MEDIA INCLUDING, BUT NOT LIMITED TO, THE INTERNET, A COMPUTER,
15 COMPUTER PROGRAM, COMPUTER NETWORK, OR COMPUTER SYSTEM teach or
16 demonstrate to another person the use, application, or construc-
17 tion of ~~any~~ A firearm, or ~~any~~ AN explosive or incendiary
18 device, if that person knows, has reason to know, or intends that
19 what is taught or demonstrated will be used in, or in furtherance
20 of, a civil disorder. A VIOLATION OR ATTEMPTED VIOLATION OF THIS
21 SUBSECTION THROUGH THE USE OF ANY MEDIA, INCLUDING, BUT NOT
22 LIMITED TO, THE INTERNET, A COMPUTER, COMPUTER PROGRAM, COMPUTER
23 NETWORK, OR COMPUTER SYSTEM OCCURS IF THE COMMUNICATION ORIGI-
24 NATES, TERMINATES, OR BOTH ORIGINATES AND TERMINATES IN THIS
25 STATE.

26 (3) A person shall not assemble with 1 or more persons for
27 the purpose of training with, practicing with, or being

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1 instructed in the use of any firearm, or any explosive or
2 incendiary device, if that person intends to use ~~such~~ a firearm
3 or device in, or in furtherance of, a civil disorder.

4 (4) A VIOLATION OR ATTEMPTED VIOLATION OF SUBSECTION (2)
5 THROUGH THE USE OF ANY MEDIA, INCLUDING, BUT NOT LIMITED TO, THE
6 INTERNET, A COMPUTER, COMPUTER PROGRAM, COMPUTER NETWORK, OR COM-
7 PUTER SYSTEM DOES NOT APPLY TO AN INTERNET SERVICE PROVIDER OR
8 COMPUTER NETWORK SERVICE PROVIDER WHO DOES NOT HAVE PRIOR ACTUAL
9 KNOWLEDGE THAT WHAT IS TAUGHT OR DEMONSTRATED IS INTENDED TO BE
10 USED IN, OR WILL BE USED IN, OR IN FURTHERANCE OF, A CIVIL
11 DISORDER.

12 (5) ~~(4)~~ This section ~~shall~~ DOES not apply to ~~any act~~
13 ~~of~~ a law enforcement officer ~~which is performed~~ in the lawful
14 performance of his or her official duties as a law enforcement
15 officer, or ~~any activity~~ THE ACTIVITIES of ~~any~~ A hunting
16 club, rifle club, rifle range, pistol range, shooting range, or
17 other program or individual instruction intended to teach the
18 safe handling or use of firearms, archery equipment, or other
19 weapons or techniques employed in connection with lawful sports,
20 self-defense, or other lawful activities.

21 (6) ~~(5)~~ A person who violates this section is guilty of a
22 CRIME AS FOLLOWS:

23 (A) EXCEPT AS PROVIDED IN SUBDIVISIONS (B) AND (C), THE
24 PERSON IS GUILTY OF A felony PUNISHABLE BY IMPRISONMENT FOR NOT
25 MORE THAN 4 YEARS OR A FINE OF NOT MORE THAN \$2,500.00, OR BOTH.

26 (B) IF THE FIREARM, EXPLOSIVE, OR INCENDIARY DEVICE IS USED
27 IN THE COMMISSION OF A CIVIL DISORDER, THE PERSON IS GUILTY OF A

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1 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A
2 FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

3 (C) IF THE FIREARM, EXPLOSIVE, OR INCENDIARY DEVICE IS USED
4 IN THE COMMISSION OF A CIVIL DISORDER AND THE USE OF THAT FIRE-
5 ARM, EXPLOSIVE, OR INCENDIARY DEVICE CAUSES DEATH TO OR SERIOUS
6 IMPAIRMENT OF A BODY FUNCTION TO ANOTHER INDIVIDUAL, THE PERSON
7 IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE
8 THAN 20 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

9 (7) THIS SECTION DOES NOT PROHIBIT THE PERSON FROM BEING
10 CHARGED WITH, CONVICTED OF, OR SENTENCED FOR ANY OTHER VIOLATION
11 OF LAW COMMITTED BY THAT INDIVIDUAL WHILE VIOLATING THIS
12 SECTION.

13 (8) A TERM OF IMPRISONMENT IMPOSED FOR A VIOLATION OF THIS
14 SECTION MAY RUN CONSECUTIVELY TO ANY TERM OF IMPRISONMENT IMPOSED
15 FOR ANOTHER VIOLATION ARISING FROM THE SAME TRANSACTION.

16 (9) AS USED IN THIS SECTION:

17 (A) "COMPUTER" MEANS ANY CONNECTED, DIRECTLY INTEROPERABLE
18 OR INTERACTIVE DEVICE, EQUIPMENT, OR FACILITY THAT USES A COM-
19 PUTER PROGRAM OR OTHER INSTRUCTIONS TO PERFORM SPECIFIC OPERA-
20 TIONS INCLUDING LOGICAL, ARITHMETIC, OR MEMORY FUNCTIONS WITH OR
21 ON COMPUTER DATA OR A COMPUTER PROGRAM AND THAT CAN STORE,
22 RETRIEVE, ALTER, OR COMMUNICATE THE RESULTS OF THE OPERATIONS TO
23 A PERSON, COMPUTER PROGRAM, COMPUTER, COMPUTER SYSTEM, OR COM-
24 PUTER NETWORK.

25 (B) "COMPUTER NETWORK" MEANS THE INTERCONNECTION OF HARDWIRE
26 OR WIRELESS COMMUNICATION LINES WITH A COMPUTER THROUGH REMOTE

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1 TERMINALS, OR A COMPLEX CONSISTING OF 2 OR MORE INTERCONNECTED
2 COMPUTERS.

3 (C) "COMPUTER PROGRAM" MEANS A SERIES OF INTERNAL OR EXTER-
4 NAL INSTRUCTIONS COMMUNICATED IN A FORM ACCEPTABLE TO A COMPUTER
5 THAT DIRECTS THE FUNCTIONING OF A COMPUTER, COMPUTER SYSTEM, OR
6 COMPUTER NETWORK IN A MANNER DESIGNED TO PROVIDE OR PRODUCE PRO-
7 DUCTS OR RESULTS FROM THE COMPUTER, COMPUTER SYSTEM, OR COMPUTER
8 NETWORK.

9 (D) "COMPUTER SYSTEM" MEANS A SET OF RELATED, CONNECTED OR
10 UNCONNECTED, COMPUTER EQUIPMENT, DEVICES, SOFTWARE, OR HARDWARE.

11 (E) "DEVICE" INCLUDES, BUT IS NOT LIMITED TO, AN ELECTRONIC,
12 MAGNETIC, ELECTROCHEMICAL, BIOCHEMICAL, HYDRAULIC, OPTICAL, OR
13 ORGANIC OBJECT THAT PERFORMS INPUT, OUTPUT, OR STORAGE FUNCTIONS
14 BY THE MANIPULATION OF ELECTRONIC, MAGNETIC, OR OTHER IMPULSES.

15 (F) "INTERNET" MEANS THAT TERM AS DEFINED IN SECTION 230 OF
16 TITLE II OF THE COMMUNICATIONS ACT OF 1934, CHAPTER 652, 110
17 STAT. 137, 47 U.S.C. 230.

18 (G) "SERIOUS IMPAIRMENT OF A BODY FUNCTION" INCLUDES, BUT IS
19 NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

20 (i) LOSS OF A LIMB OR USE OF A LIMB.

21 (ii) LOSS OF A HAND, FOOT, FINGER, OR THUMB OR USE OF A
22 HAND, FOOT, FINGER, OR THUMB.

23 (iii) LOSS OF AN EYE OR EAR OR USE OF AN EYE OR EAR.

24 (iv) LOSS OR SUBSTANTIAL IMPAIRMENT OF A BODILY FUNCTION.

25 (v) SERIOUS VISIBLE DISFIGUREMENT.

26 (vi) A COMATOSE STATE THAT LASTS FOR MORE THAN 3 DAYS.

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- 1 (vii) MEASURABLE BRAIN DAMAGE OR MENTAL IMPAIRMENT.
- 2 (viii) A SKULL FRACTURE OR OTHER SERIOUS BONE FRACTURE.
- 3 (ix) SUBDURAL HEMORRHAGE OR SUBDURAL HEMATOMA.
- 4 Enacting section 1. This amendatory act takes effect August
- 5 1, 1999.