

HOUSE BILL No. 5442

November 1, 2001, Introduced by Reps. Kooiman, Raczkowski, Faunce, Julian, Woronchak, Sanborn, Ehardt and Mortimer and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 479 and 479a (MCL 750.479 and 750.479a),
section 479a as amended by 1998 PA 344.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 479. (1) ~~Resisting, etc., officer in discharge of~~
2 ~~duty--Any~~ A person ~~who shall knowingly~~ SHALL NOT DO ANY OF THE
3 FOLLOWING:

4 (A) KNOWINGLY and ~~wilfully~~ WILLFULLY obstruct, resist, or
5 oppose ~~any~~ A sheriff, ~~coroner~~ MEDICAL EXAMINER, township
6 treasurer, constable, or other officer or ~~person~~ duly autho-
7 rized ~~—, in~~ PERSON serving ~~—~~, or attempting to serve or execute
8 any process, rule, or order made or issued by lawful authority.
9 ~~—, or who shall resist any~~

1 (B) RESIST AN officer ~~in the execution of any~~ ENFORCING AN
 2 ordinance, ~~by law, or any rule, order, or resolution made,~~
 3 ~~issued, or passed by~~ OF the common council of ~~any~~ A city board
 4 of trustees, ~~or~~ THE common council or village council of ~~any~~
 5 AN incorporated village, or A township board of any township. ~~or~~
 6 ~~who shall assault~~

7 (C) ASSAULT, beat, or wound ~~any sheriff, coroner~~ A MEDICAL
 8 EXAMINER, township treasurer, ~~constable~~ or other ~~officer~~ duly
 9 authorized ~~, while~~ OFFICER OTHER THAN A PEACE OFFICER serving
 10 ~~,~~ or attempting to serve or execute any ~~such~~ process, rule,
 11 or order DESCRIBED IN THIS SECTION, or for having served ~~,~~ or
 12 attempted to serve or execute ~~the same, or who shall so~~
 13 ~~obstruct,~~ ANY PROCESS, RULE, OR ORDER DESCRIBED IN THIS
 14 SECTION.

15 (D) OBSTRUCT, resist, OR oppose ~~, assault, beat or wound~~
 16 any ~~of the above named officers,~~ INDIVIDUAL DESCRIBED IN THIS
 17 SECTION or any other ~~person or persons~~ INDIVIDUAL authorized by
 18 law to maintain and preserve the peace ~~,~~ in ~~their~~ HIS OR HER
 19 lawful acts, attempts, ~~and~~ OR efforts to maintain, preserve,
 20 and keep the peace. ~~, shall be~~

21 (E) ASSAULT, BEAT, OR WOUND ANY INDIVIDUAL DESCRIBED IN THIS
 22 SECTION OR ANY OTHER INDIVIDUAL AUTHORIZED BY LAW TO MAINTAIN AND
 23 PRESERVE THE PEACE, OTHER THAN A PEACE OFFICER, IN HIS OR HER
 24 LAWFUL ACTS, ATTEMPTS, OR EFFORTS TO MAINTAIN, PRESERVE, AND KEEP
 25 THE PEACE.

26 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), A PERSON WHO
 27 VIOLATES THIS SECTION IS guilty of a misdemeanor ~~,~~ punishable

1 by imprisonment ~~in the state prison~~ FOR not more than 2 years
2 ~~—~~ or ~~by~~ a fine of not more than ~~1,000 dollars~~ \$1,000.00, OR
3 BOTH.

4 (3) A PERSON WHO VIOLATES THIS SECTION AND BY THAT VIOLATION
5 INFLECTS BODILY INJURY REQUIRING MEDICAL ATTENTION OR MEDICAL
6 CARE ON AN INDIVIDUAL DESCRIBED IN THIS SECTION IS GUILTY OF A
7 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR A
8 FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

9 (4) AS USED IN THIS SECTION, "PEACE OFFICER" MEANS THAT TERM
10 AS DEFINED IN SECTION 81D.

11 Sec. 479a. (1) A driver of a motor vehicle who is given by
12 hand, voice, emergency light, or siren a visual or audible signal
13 by a police or conservation officer, acting in the lawful per-
14 formance of his or her duty, directing the driver to bring his or
15 her motor vehicle to a stop shall not willfully fail to obey that
16 direction by increasing the speed of the vehicle, extinguishing
17 the lights of the vehicle, or otherwise attempting to flee or
18 elude the police or conservation officer. This subsection does
19 not apply unless the police or conservation officer giving the
20 signal is in uniform and the officer's vehicle is identified as
21 an official police or department of natural resources vehicle.

22 (2) Except as provided in subsection (3), (4), or (5), an
23 individual who violates subsection (1) is guilty of fourth-degree
24 fleeing and eluding, a felony punishable by imprisonment for not
25 more than 2 years or a fine of not more than \$500.00, or both.

26 (3) Except as provided in subsection (4) or (5), an
27 individual who violates subsection (1) is guilty of third-degree

1 fleeing and eluding, a felony punishable by imprisonment for not
2 more than 5 years or a fine of not more than \$1,000.00, or both,
3 if 1 or more of the following circumstances apply:

4 (a) The violation results in a collision or accident.

5 (b) A portion of the violation occurred in an area where the
6 speed limit is 35 miles an hour or less, whether that speed limit
7 is posted or imposed as a matter of law.

8 (c) The individual has a prior conviction for fourth-degree
9 fleeing and eluding, attempted fourth-degree fleeing and eluding,
10 or fleeing and eluding under a current or former law of this
11 state prohibiting substantially similar conduct.

12 (4) Except as provided in subsection (5), an individual who
13 violates subsection (1) is guilty of second-degree fleeing and
14 eluding, a felony punishable by imprisonment for not more than 10
15 years or a fine of not more than \$5,000.00, or both, if 1 or more
16 of the following circumstances apply:

17 (a) The violation results in serious injury to an
18 individual.

19 (b) The individual has 1 or more prior convictions for
20 first-, second-, or third-degree fleeing and eluding, attempted
21 first-, second-, or third-degree fleeing and eluding, or fleeing
22 and eluding under a current or former law of this state prohibit-
23 ing substantially similar conduct.

24 (c) The individual has any combination of 2 or more prior
25 convictions for fourth-degree fleeing and eluding, attempted
26 fourth-degree fleeing and eluding, or fleeing and eluding under a

1 current or former law of this state prohibiting substantially
2 similar conduct.

3 (5) If the violation results in the death of another indi-
4 vidual, an individual who violates subsection (1) is guilty of
5 first-degree fleeing and eluding, a felony punishable by impris-
6 onment for not more than 15 years or a fine of not more than
7 \$10,000.00, or both.

8 ~~(6) An individual who forcibly assaults or commits a bodily~~
9 ~~injury requiring medical care or attention upon a peace or police~~
10 ~~officer of this state while the peace or police officer is~~
11 ~~engaged in making a lawful arrest, knowing him or her to be a~~
12 ~~peace or police officer, is guilty of a misdemeanor punishable by~~
13 ~~a fine of not more than \$1,000.00 or imprisonment for not more~~
14 ~~than 2 years, or both.~~

15 (6) ~~(7)~~ Upon a conviction for a violation or attempted
16 violation under subsection (2) or (3), the secretary of state
17 shall suspend the individual's operator's or chauffeur's license
18 as provided in section 319 of the Michigan vehicle code, 1949
19 PA 300, MCL 257.319.

20 (7) ~~(8)~~ Upon a conviction for a violation or attempted
21 violation under subsection (4) or (5), the secretary of state
22 shall revoke the individual's operator's or chauffeur's license
23 as provided in section 303 of the Michigan vehicle code, 1949
24 PA 300, MCL 257.303.

25 (8) ~~(9)~~ Except as otherwise provided, a conviction under
26 this section does not prohibit a conviction and sentence under
27 any other applicable provision for conduct arising out of the

1 same transaction. A conviction under subsection (2), (3), (4),
2 or (5) prohibits a conviction under section 602a of the Michigan
3 vehicle code, 1949 PA 300, MCL 257.602a, for conduct arising out
4 of the same transaction.

5 (9) ~~-(10)-~~ As used in this section, "serious injury" means a
6 physical injury that is not necessarily permanent, but that con-
7 stitutes serious bodily disfigurement or that seriously impairs
8 the functioning of a body organ or limb. Serious injury
9 includes, but is not limited to, 1 or more of the following:

10 (a) Loss of a limb or of use of a limb.

11 (b) Loss of a hand, foot, finger, or thumb or of use of a
12 hand, foot, finger, or thumb.

13 (c) Loss of an eye or ear or of use of an eye or ear.

14 (d) Loss or substantial impairment of a bodily function.

15 (e) Serious visible disfigurement.

16 (f) A comatose state that lasts for more than 3 days.

17 (g) Measurable brain damage or mental impairment.

18 (h) A skull fracture or other serious bone fracture.

19 (i) Subdural hemorrhage or hematoma.

20 Enacting section 1. This amendatory act does not take
21 effect unless Senate Bill No. ____ or House Bill No. 5440 (request
22 no. 04124'01 b **) of the 91st Legislature is enacted into law.