

Crimes; malicious destruction; malicious destruction of property;  
revise.

CRIMES: Malicious destruction; PROPERTY: Other

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending sections 377a, 380, and 382 (MCL 750.377a, 750.380,  
and 750.382), sections 377a and 380 as amended by 1998 PA 311 and  
section 382 as amended by 1998 PA 344.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 377a. (1) A person who willfully and maliciously  
2       destroys or injures the personal property of another person, OR  
3       WHO WILLFULLY AND MALICIOUSLY DESTROYS OR INJURES PERSONAL PROP-  
4       ERTY THAT HE OR SHE JOINTLY OWNS OR JOINTLY POSSESSES WITH 1 OR  
5       MORE OTHER PERSONS, WITHOUT THE CONSENT OF THAT PERSON OR THOSE  
6       PERSONS, is guilty of a crime as follows:

7       (a) If any of the following apply, the person is guilty of a  
8       felony punishable by imprisonment for not more than 10 years or a  
9       fine of not more than \$15,000.00 or 3 times the amount of the

1 destruction or injury, whichever is greater, or both imprisonment  
2 and a fine:

3 (i) The amount of the destruction or injury is \$20,000.00 or  
4 more.

5 (ii) The person violates subdivision (b)(i) and has 2 or  
6 more prior convictions for committing or attempting to commit an  
7 offense under this section. For purposes of this subparagraph,  
8 however, a prior conviction does not include a conviction for a  
9 violation or attempted violation of subdivision (c)(ii) or (d).

10 (b) If any of the following apply, the person is guilty of a  
11 felony punishable by imprisonment for not more than 5 years or a  
12 fine of not more than \$10,000.00 or 3 times the amount of the  
13 destruction or injury, whichever is greater, or both imprisonment  
14 and a fine:

15 (i) The amount of the destruction or injury is \$1,000.00 or  
16 more but less than \$20,000.00.

17 (ii) The person violates subdivision (c)(i) and has 1 or  
18 more prior convictions for committing or attempting to commit an  
19 offense under this section. For purposes of this subparagraph,  
20 however, a prior conviction does not include a conviction for a  
21 violation or attempted violation of subdivision (c)(ii) or (d).

22 (c) If any of the following apply, the person is guilty of a  
23 misdemeanor punishable by imprisonment for not more than 1 year  
24 or a fine of not more than \$2,000.00 or 3 times the amount of the  
25 destruction or injury, whichever is greater, or both imprisonment  
26 and a fine:

1           (i) The amount of the destruction or injury is \$200.00 or  
2 more but less than \$1,000.00.

3           (ii) The person violates subdivision (d) and has 1 or more  
4 prior convictions for committing or attempting to commit an  
5 offense under this section or a local ordinance substantially  
6 corresponding to this section.

7           (d) If the amount of the destruction or injury is less than  
8 \$200.00, the person is guilty of a misdemeanor punishable by  
9 imprisonment for not more than 93 days or a fine of not more than  
10 \$500.00 or 3 times the amount of the destruction or injury,  
11 whichever is greater, or both imprisonment and a fine.

12           (2) The amounts of destruction or injury in separate inci-  
13 dents pursuant to a scheme or course of conduct within any  
14 12-month period may be aggregated in determining the total amount  
15 of the destruction or injury.

16           (3) If the prosecuting attorney intends to seek an enhanced  
17 sentence based upon the defendant having 1 or more prior convic-  
18 tions, the prosecuting attorney shall include on the complaint  
19 and information a statement listing the prior conviction or  
20 convictions. The existence of the defendant's prior conviction  
21 or convictions shall be determined by the court, without a jury,  
22 at sentencing or at a separate hearing for that purpose before  
23 sentencing. The existence of a prior conviction may be estab-  
24 lished by any evidence relevant for that purpose, including, but  
25 not limited to, 1 or more of the following:

26           (a) A copy of the judgment of conviction.

1 (b) A transcript of a prior trial, plea-taking, or  
2 sentencing.

3 (c) Information contained in a presentence report.

4 (d) The defendant's statement.

5 (4) If the sentence for a conviction under this section is  
6 enhanced by 1 or more prior convictions, those prior convictions  
7 shall not be used to further enhance the sentence for the convic-  
8 tion pursuant to section 10, 11, or 12 of chapter IX of the code  
9 of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and  
10 769.12.

11 Sec. 380. (1) A person shall not ~~willfully~~ DO EITHER OF  
12 THE FOLLOWING:

13 (A) WILLFULLY and maliciously destroy or injure another  
14 person's house, barn, or other building or its appurtenances.

15 (B) WILLFULLY AND MALICIOUSLY DESTROY OR INJURE A HOUSE,  
16 BARN, OR OTHER BUILDING OR ITS APPURTENANCES THAT HE OR SHE OWNS  
17 JOINTLY WITH 1 OR MORE OTHER PERSONS, WITHOUT THE CONSENT OF THE  
18 OTHER PERSON OR PERSONS.

19 (2) If any of the following apply, a person who violates  
20 subsection (1) is guilty of a felony punishable by imprisonment  
21 for not more than 10 years or a fine of not more than \$15,000.00  
22 or 3 times the amount of the destruction or injury, whichever is  
23 greater, or both imprisonment and a fine:

24 (a) The amount of the destruction or injury is \$20,000.00 or  
25 more.

26 (b) The person violates subsection (3)(a) and has 2 or more  
27 prior convictions for committing or attempting to commit an

1 offense under this section. For purposes of this subdivision,  
2 however, a prior conviction does not include a conviction for a  
3 violation or attempted violation of subsection (4)(b) or (5).

4 (3) If any of the following apply, a person who violates  
5 subsection (1) is guilty of a felony punishable by imprisonment  
6 for not more than 5 years or a fine of not more than \$10,000.00  
7 or 3 times the amount of the destruction or injury, whichever is  
8 greater, or both imprisonment and a fine:

9 (a) The amount of the destruction or injury is \$1,000.00 or  
10 more but less than \$20,000.00.

11 (b) The person violates subsection (4)(a) and has 1 or more  
12 prior convictions for committing or attempting to commit an  
13 offense under this section. For purposes of this subdivision,  
14 however, a prior conviction does not include a conviction for a  
15 violation or attempted violation of subsection (4)(b) or (5).

16 (4) If any of the following apply, a person who violates  
17 subsection (1) is guilty of a misdemeanor punishable by imprison-  
18 ment for not more than 1 year or a fine of not more than  
19 \$2,000.00 or 3 times the amount of the destruction or injury,  
20 whichever is greater, or both imprisonment and a fine:

21 (a) The amount of the destruction or injury is \$200.00 or  
22 more but less than \$1,000.00.

23 (b) The person violates subsection (5) and has 1 or more  
24 prior convictions for committing or attempting to commit an  
25 offense under this section or a local ordinance substantially  
26 corresponding to this section.

1           (5) If the amount of the destruction or injury is less than  
2     \$200.00, a person who violates subsection (1) is guilty of a  
3     misdemeanor punishable by imprisonment for not more than 93 days  
4     or a fine of not more than \$500.00 or 3 times the amount of the  
5     destruction or injury, whichever is greater, or both imprisonment  
6     and a fine.

7           (6) The amounts of the destruction or injury in separate  
8     incidents pursuant to a scheme or course of conduct within any  
9     12-month period may be aggregated to determine the total amount  
10    of the destruction or injury.

11          (7) If the prosecuting attorney intends to seek an enhanced  
12    sentence based upon the defendant having 1 or more prior convictions,  
13    the prosecuting attorney shall include on the complaint  
14    and information a statement listing the prior conviction or  
15    convictions. The existence of the defendant's prior conviction  
16    or convictions shall be determined by the court, without a jury,  
17    at sentencing or at a separate hearing for that purpose before  
18    sentencing. The existence of a prior conviction may be established  
19    by any evidence relevant for that purpose, including, but  
20    not limited to, 1 or more of the following:

21           (a) A copy of the judgment of conviction.

22           (b) A transcript of a prior trial, plea-taking, or  
23    sentencing.

24           (c) Information contained in a presentence report.

25           (d) The defendant's statement.

26          (8) If the sentence for a conviction under this section is  
27    enhanced by 1 or more prior convictions, those prior convictions

1 shall not be used to further enhance the sentence for the  
2 conviction pursuant to section 10, 11, or 12 of chapter IX of the  
3 code of criminal procedure, 1927 PA 175, 769.10, 769.11, and  
4 769.12.

5 Sec. 382. (1) A person ~~who~~ SHALL NOT willfully and mali-  
6 ciously, or wantonly and without cause, ~~cuts~~ DO EITHER OF THE  
7 FOLLOWING:

8 (A) CUT down, ~~destroys~~ DESTROY, or ~~injures~~ INJURE any  
9 tree, shrub, grass, turf, plants, crops, or soil of another that  
10 is standing, growing, or located on the land of another.

11 (B) CUT DOWN, DESTROY, OR INJURE ANY TREE, SHRUB, GRASS,  
12 TURF, PLANTS, CROPS, OR SOIL HE OR SHE JOINTLY OWNS WITH 1 OR  
13 MORE OTHER PERSONS, WITHOUT THE CONSENT OF THAT PERSON OR THOSE  
14 PERSONS.

15 (2) A PERSON WHO VIOLATES SUBSECTION (1) is guilty of a  
16 crime as follows:

17 (a) If the value of the trees, shrubs, grass, turf, plants,  
18 crops, or soil cut down, destroyed, or injured is less than  
19 \$200.00, the person is guilty of a misdemeanor punishable by  
20 imprisonment for not more than 93 days or a fine of not more than  
21 \$500.00 or 3 times the value of the trees, shrubs, grass, turf,  
22 plants, crops, or soil, whichever is greater, or both imprison-  
23 ment and a fine.

24 (b) If any of the following apply, the person is guilty of a  
25 misdemeanor punishable by imprisonment for not more than 1 year  
26 or a fine of not more than \$2,000.00 or 3 times the value of the

1 trees, shrubs, grass, turf, plants, crops, or soil, whichever is  
2 greater, or both imprisonment and a fine:

3 (i) The value of the trees, shrubs, grass, turf, plants, or  
4 soil cut down, destroyed, or injured is \$200.00 or more but less  
5 than \$1,000.00.

6 (ii) The person violates subdivision (a) and has 1 or more  
7 prior convictions for committing or attempting to commit an  
8 offense under this section or a local ordinance substantially  
9 corresponding to this section.

10 (c) If any of the following apply, the person is guilty of a  
11 felony punishable by imprisonment for not more than 5 years or a  
12 fine of not more than \$10,000.00 or 3 times the value of the  
13 trees, shrubs, grass, turf, plants, crops, or soil, whichever is  
14 greater, or both imprisonment and a fine:

15 (i) The value of the trees, shrubs, grass, turf, plants,  
16 crops, or soil cut down, destroyed, or injured is \$1,000.00 or  
17 more but less than \$20,000.00.

18 (ii) The person violates subdivision (b)(i) and has 1 or  
19 more prior convictions for committing or attempting to commit an  
20 offense under this section. For purposes of this subparagraph,  
21 however, a prior conviction does not include a conviction for a  
22 violation or attempted violation of subdivision (a) or (b)(ii).

23 (d) If any of the following apply, the person is guilty of a  
24 felony punishable by imprisonment for not more than 10 years or a  
25 fine of not more than \$15,000.00 or 3 times the value of the  
26 trees, shrubs, grass, turf, plants, crops, or soil, whichever is  
27 greater, or both imprisonment and a fine:



1           (i) The value of the trees, shrubs, grass, turf, plants,  
2 crops, or soil cut down, destroyed, or injured is \$20,000.00 or  
3 more.

4           (ii) The person violates subdivision (c)(i) and has 2 or  
5 more prior convictions for committing or attempting to commit an  
6 offense under this section. For purposes of this subparagraph,  
7 however, a prior conviction does not include a conviction for a  
8 violation or attempted violation of subdivision (a) or (b)(ii).

9           (3) ~~-(2)-~~ The secretary of state shall suspend the  
10 operator's or chauffeur's license of a person convicted of a vio-  
11 lation or attempted violation of subsection (1) who committed the  
12 offense with a vehicle, as provided in section 319 of the  
13 Michigan vehicle code, 1949 PA 300, MCL 257.319. As used in this  
14 subsection, "vehicle" means that term as defined in section 79 of  
15 the Michigan vehicle code, 1949 PA 300, MCL 257.79.

16           (4) ~~-(3)-~~ The values of trees, shrubs, grass, turf, plants,  
17 crops, or soil cut down, destroyed, or injured in separate inci-  
18 dents pursuant to a scheme or course of conduct within any  
19 12-month period may be aggregated to determine the total value of  
20 trees, shrubs, grass, turf, plants, crops, or soil cut down,  
21 destroyed, or injured.

22           (5) ~~-(4)-~~ If the prosecuting attorney intends to seek an  
23 enhanced sentence based upon the defendant having 1 or more prior  
24 convictions, the prosecuting attorney shall include on the com-  
25 plaint and information a statement listing the prior conviction  
26 or convictions. The existence of the defendant's prior  
27 conviction or convictions shall be determined by the court,

1 without a jury, at sentencing or at a separate hearing for that  
2 purpose before sentencing. The existence of a prior conviction  
3 may be established by any evidence relevant for that purpose,  
4 including, but not limited to, 1 or more of the following:

5 (a) A copy of the judgment of conviction.

6 (b) A transcript of a prior trial, plea-taking, or  
7 sentencing.

8 (c) Information contained in a presentence report.

9 (d) The defendant's statement.

10 (6) ~~-(5)-~~ If the sentence for a conviction under this sec-  
11 tion is enhanced by 1 or more prior convictions, those prior con-  
12 victions shall not be used to further enhance the sentence for  
13 the conviction pursuant to section 10, 11, or 12 of chapter IX of  
14 the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11,  
15 and 769.12.