

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4476

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 147c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 147c. (1) A person is guilty of institutional desecration
2 if that person maliciously and intentionally destroys, damages,
3 defaces, or vandalizes, or makes a true threat to destroy, damage,
4 deface, or vandalize, any of the following, in whole or in part,
5 because of the actual or perceived race, color, religion, sex,
6 sexual orientation, gender identity or expression, physical or
7 mental disability, age, ethnicity, or national origin of another
8 individual or group of individuals, regardless of the existence of
9 any additional motivating factors:

1 (a) A synagogue, mosque, church, temple, gurdwara, shrine, or
2 other building, structure, or place used for religious worship or
3 other religious purpose.

4 (b) A cemetery, mortuary, or other facility used for the
5 purpose of burial or memorializing the dead.

6 (c) A school, educational facility, library, museum, community
7 center, or campground.

8 (d) A business or charitable establishment, storefront,
9 facility, office, or headquarters.

10 (e) The grounds adjacent to, and owned or rented by, any
11 institution, facility, building, structure, or place described in
12 subdivision (a), (b), (c), or (d).

13 (f) The digital or online assets maintained, authored, rented,
14 or owned by any institution, facility, entity, or place described
15 in subdivision (a), (b), (c), or (d).

16 (g) Any personal, communal, or institutional property
17 contained in any institution, facility, building, structure, or
18 place described in subdivision (a), (b), (c), or (d).

19 (2) If any of the following apply, a person who violates
20 subsection (1) is guilty of a felony punishable by imprisonment for
21 not more than 10 years or a fine of not more than \$15,000.00 or 3
22 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 offense
28 under this section. For purposes of this subdivision, however, a
29 prior conviction does not include a conviction for a violation or

1 attempted violation of subsection (4) (b) or (5) .

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

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

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

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

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

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

25 (5) If the amount of the destruction or injury is less than
26 \$200.00, a person who violates subsection (1) is guilty of a
27 misdemeanor punishable by imprisonment for not more than 93 days or
28 a fine of not more than \$500.00 or 3 times the amount of the
29 destruction or injury, whichever is greater, or both imprisonment

1 and a fine.

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

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

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

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

18 (c) Information contained in a presentence report.

19 (d) The defendant's statement.

20 (8) In lieu of or in addition to the penalties described in
21 subsections (4) and (5), the court may, if the defendant consents,
22 impose an alternative sentence described under this subsection. In
23 determining the suitability of an alternative sentence described
24 under this subsection, the court shall consider the criminal
25 history of the offender, the impact of the offense on the victim
26 and wider community, the availability of the alternative sentence,
27 and the nature of the violation. An alternative sentence may, if
28 the entity chosen for community service is amenable, include an
29 order requiring the offender to complete a period of community

1 service intended to enhance the offender's understanding of the
2 impact of the offense on the victim and wider community.

3 (9) The court may, if the defendant consents, reduce any
4 penalty imposed under subsection (3) by not more than 20% and
5 impose an alternative sentence described under this subsection. In
6 determining the suitability of an alternative sentence described
7 under this subsection, the court shall consider the criminal
8 history of the offender, the impact of the offense on the victim
9 and wider community, the availability of the alternative sentence,
10 and the nature of the violation. An alternative sentence may, if
11 the entity chosen for community service is amenable, include an
12 order requiring the offender to complete a period of community
13 service intended to enhance the offender's understanding of the
14 impact of the offense on the victim and wider community.

15 (10) Regardless of the existence or outcome of any criminal
16 prosecution, an entity or institution described under subsection
17 (1) that suffers damage or destruction to property may bring a
18 civil cause of action against the person who commits the offense to
19 secure an injunction, actual damages, including damages for
20 infliction of mental injury or emotional distress, or other
21 appropriate relief. A plaintiff who prevails in a civil action
22 brought pursuant to this section may recover both of the following:

23 (a) Damages in the amount of 3 times the actual damages
24 described in this subsection or \$25,000.00, whichever is greater.

25 (b) Reasonable attorney fees and costs.

26 (11) As used in this section:

27 (a) "Reckless disregard" means to consciously disregard a
28 substantial and unjustifiable risk that a statement will be viewed
29 as threatening violence.

1 (b) "True threat" means a statement in which the speaker means
2 to communicate a serious expression of an intent to commit an act
3 of unlawful violence to a particular individual or group of
4 individuals, including unlawful property damage to the property of
5 a particular individual or group of individuals. A true threat
6 includes such a communication made with reckless disregard. A
7 speaker is not liable for communicating a true threat if the
8 speaker was unaware that the individual or the group of individuals
9 could regard the statement as threatening violence.