

HOUSE BILL NO. 4476

April 26, 2023, Introduced by Reps. Arbit, Puri, Grant, MacDonell, Tsernoglou, Wegela, Morgan, Paiz, Churches, Glanville, Hoskins, McFall, Coffia, Andrews, Rheingans, Mentzer, Farhat, Martus, Breen, McKinney, Wilson, Skaggs, Steckloff, Rogers, Tyrone Carter, Byrnes, Price, Weiss, Brenda Carter, Miller, Hope, Hood, Hill, Brabec, Scott, Conlin, Dievendorf, Young, O'Neal, Neeley, Morse, Brixie, Fitzgerald, Edwards, Shannon, Aiyash and Whitsett and referred to the Committee on Criminal Justice.

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 intentionally destroys, damages, defaces, or**
3 **vandalizes, or threatens, by word or act, 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**

1 mental disability, age, ethnicity, or national origin of another
2 individual or group of individuals, regardless of the existence of
3 any additional motivating factors:

4 (a) A church, synagogue, mosque, temple, shrine, or other
5 building, structure, or place used for religious worship or other
6 religious purpose.

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

9 (c) A school, educational facility, museum, community center,
10 or campground.

11 (d) A business or charitable establishment, storefront,
12 facility, office, or headquarters.

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

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

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

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

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

29 (b) The person violates subsection (3) (a) and has 2 or more

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

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

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

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

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

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

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

28 (5) If the amount of the destruction or injury is less than
29 \$200.00, a person who violates subsection (1) is guilty of a

1 misdemeanor punishable by imprisonment for not more than 93 days or
2 a fine of not more than \$500.00 or 3 times the amount of the
3 destruction or injury, whichever is greater, or both imprisonment
4 and a fine.

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

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

- 19 (a) A copy of the judgment of conviction.
20 (b) A transcript of a prior trial, plea-taking, or sentencing.
21 (c) Information contained in a presentence report.
22 (d) The defendant's statement.

23 (8) In lieu of or in addition to the penalties described in
24 subsections (4) and (5), the court may impose an alternative
25 sentence described under this subsection. In determining the
26 suitability of an alternative sentence described under this
27 subsection, the court shall consider the criminal history of the
28 offender, the impact of the offense on the victim and wider
29 community, the availability of the alternative sentence, and the

1 nature of the violation. An alternative sentence may include an
2 order requiring the offender to complete a period of community
3 service intended to enhance the offender's understanding of the
4 impact of the offense on the victim and wider community. Community
5 service ordered under this subsection must be performed with the
6 consent of and in support of the community targeted in the
7 violation.

8 (9) In addition to the penalties described in subsections (2)
9 and (3), the court may impose an alternative sentence described
10 under this subsection. In determining the suitability of an
11 alternative sentence described under this subsection, the court
12 shall consider the criminal history of the offender, the impact of
13 the offense on the victim and wider community, the availability of
14 the alternative sentence, and the nature of the violation. An
15 alternative sentence may include an order requiring the offender to
16 complete a period of community service intended to enhance the
17 offender's understanding of the impact of the offense on the victim
18 and wider community. Community service ordered under this
19 subsection must be performed with the consent of and in support of
20 the community targeted in the violation.

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

29 (a) Damages in the amount of 3 times the actual damages

1 described in this subsection or \$25,000.00, whichever is greater.

2 (b) Reasonable attorney fees and costs.

3 (11) As used in this section, "gender identity or expression"
4 means having or being perceived as having a gender-related self-
5 identity or expression, whether or not associated with an
6 individual's assigned sex at birth.