

Act No. 259
Public Acts of 2024
Approved by the Governor
January 22, 2025
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**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2024**

Introduced by Reps. Arbit and Grant

ENROLLED HOUSE BILL No. 5400

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at criminal trials; to provide for liability for damages; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 147b (MCL 750.147b), as added by 1988 PA 371.

The People of the State of Michigan enact:

Sec. 147b. (1) An individual is guilty of a hate crime if that individual, maliciously and intentionally does any of the following to an individual based in whole or in part on an actual or perceived characteristic of that individual listed under subsection (2), regardless of the existence of any other motivating factors:

- (a) Uses force or violence against another individual.
 - (b) Causes bodily injury to another individual.
 - (c) Stalks another individual.
 - (d) Damages, destroys, or defaces any real or personal property of another individual without the consent of the individual.
 - (e) Makes a true threat to engage in conduct described under subdivisions (a) to (d).
- (2) The actual or perceived characteristics of another individual referenced under subsection (1) include all of the following:
- (a) Race or color.
 - (b) Religion.
 - (c) Sex.
 - (d) Sexual orientation.
 - (e) Gender identity or expression.
 - (f) Physical or mental disability.
 - (g) Age.
 - (h) Ethnicity.
 - (i) National origin.
 - (j) Association or affiliation with an individual or group of individuals in whole or in part based on a characteristic described under subdivisions (a) to (i).

(3) An individual who violates this section is guilty of a crime punishable as follows:

(a) An individual who commits a first violation of subsection (1)(e) is guilty of a felony punishable by imprisonment for not more than 2 years or by a fine of not more than \$5,000.00, or both.

(b) An individual who commits either of the following violations is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both:

(i) A first violation of subsection (1)(a), (b), (c), or (d).

(ii) A second or subsequent violation of subsection (1)(e).

(c) An individual who commits any of the following violations is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00, or both:

(i) A second or subsequent violation of subsection (1)(a), (b), (c), or (d).

(ii) A violation of subsection (1) committed in concert with 1 or more individuals.

(iii) A violation of subsection (1) committed against a victim who is less than 18 years of age by an individual who is 19 years of age or older.

(iv) A violation of subsection (1) committed while the individual is in possession of a firearm or other dangerous weapon.

(4) Regardless of the existence or outcome of any criminal prosecution, an individual who suffers injury or property damage as a result of a hate crime may bring a civil cause of action against the individual who commits the offense to secure an injunction, actual damages, including damages for emotional distress, or other appropriate relief. A plaintiff who prevails in a civil action brought pursuant to this section may recover both of the following:

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

(b) Reasonable attorney fees and costs.

(5) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions under subsection (3)(b)(ii) or (c)(i), the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions must be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

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

(c) Information contained in a presentence report.

(d) The defendant's statement.

(6) In lieu of or in addition to the penalties described in subsection (3)(a), the court may, if the defendant consents, impose an alternative sentence described under this subsection. In determining the suitability of an alternative sentence described under this subsection, the court shall consider the criminal history of the offender, the impact of the offense on the victim and wider community, the availability of the alternative sentence, and the nature of the violation. An alternative sentence may, if the entity chosen for community service is amenable, include an order requiring the offender to complete a period of community service intended to enhance the offender's understanding of the impact of the offense upon the victim and wider community.

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

(8) The court may order a sentence imposed for a violation of this section be served consecutively to a sentence imposed for any other crime, including any other violation of law arising out of the same transaction as the violation of this section.

(9) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

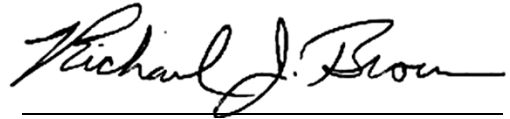
(10) This section does not enjoin any individual's exercise of the constitutional right to free speech.

(11) As used in this section:

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

(b) "Stalk" means stalking as that term is defined in section 411h.

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



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor