

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.147c Institutional desecration; violation; felony; penalties; enhanced or alternative sentence; civil action; definitions.

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

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

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

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

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

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

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

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

(2) If any of the following apply, a person who violates subsection (1) 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 3 times the amount of the destruction or injury, whichever is greater, or both imprisonment and a fine:

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

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

(3) If any of the following apply, a person who violates subsection (1) 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 3 times the amount of the destruction or injury, whichever is greater, or both imprisonment and a fine:

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

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

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

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

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

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

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

(7) If the prosecuting attorney intends to seek an enhanced sentence based on the defendant having 1 or more prior convictions, 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.

(8) In lieu of or in addition to the penalties described in subsections (4) and (5), 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 on the victim and wider community.

(9) The court may, if the defendant consents, reduce any penalty imposed under subsection (3) 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 on the victim and wider community.

(10) Regardless of the existence or outcome of any criminal prosecution, an entity or institution described under subsection (1) that suffers damage or destruction to property may bring a civil cause of action against the person who commits the offense to secure an injunction, actual damages, including damages for infliction of mental injury or 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.

(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) "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.

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