

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.368 Simulating legal process.

Sec. 368. (1) A person or agent of a person shall not by personal service, mail, or otherwise serve or cause to be served upon a debtor a notice or demand of payment of money on behalf of a creditor that is not authorized by a statute or court of this state and that simulates in form and substance legal process issued out of a court of this state.

(2) A person shall not prepare, issue, serve, execute, or otherwise act to further the operation of any unauthorized process.

(3) Except as provided in subsection (4) or (5), a person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(4) A person who violates subsection (2) after a prior conviction for violating this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(5) A person who violates subsection (2) after 2 or more prior convictions for violating this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(6) This section does not apply to a lien authorized under a statute of this state.

(7) This section does not prohibit a person from being charged with, convicted of, or sentenced for any other violation of law that individual commits while violating this section.

(8) This section does not prohibit individuals from assembling lawfully or lawful free expression of opinions or designation of group affiliation or association.

(9) As used in this section:

(a) "Lawful tribunal" means a tribunal created, established, authorized, or sanctioned by law or a tribunal of a private organization, association, or entity to the extent that the organization, association, or entity seeks in a lawful manner to affect only the rights or property of persons who are members or associates of that organization, association, or entity.

(b) "Legal process" means a summons, complaint, pleading, writ, warrant, injunction, notice, subpoena, lien, order, or other document issued or entered by or on behalf of a court or lawful tribunal or lawfully filed with or recorded by a governmental agency that is used as a means of exercising or acquiring jurisdiction over a person or property, to assert or give notice of a legal claim against a person or property, or to direct persons to take or refrain from an action.

(c) "Public employee" means an employee of this state, an employee of a city, village, township, or county of this state, or an employee of a department, board, agency, institution, commission, authority, division, council, college, university, court, school district, intermediate school district, special district, or other public entity of this state or of a city, village, township, or county in this state, but does not include a person whose employment results from election or appointment.

(d) "Public officer" means a person who is elected or appointed to any of the following:

(i) An office established by the state constitution of 1963.

(ii) A public office of a city, village, township, or county in this state.

(iii) A department, board, agency, institution, commission, court, authority, division, council, college, university, school district, intermediate school district, special district, or other public entity of this state or a city, village, township, or county in this state.

(e) "Unauthorized process" means either of the following:

(i) A document simulating legal process that is prepared or issued by or on behalf of an entity that purports or represents itself to be a lawful tribunal or a court, public officer, or other agency created, established, authorized, or sanctioned by law but that is not a lawful tribunal or a court, public officer, or other agency created, established, authorized, or sanctioned by law.

(ii) A document that would otherwise be legal process except that it was not issued or entered by or on behalf of a court or lawful tribunal or lawfully filed with or recorded by a governmental agency as required by law. However, this subparagraph does not apply to a document that would otherwise be legal process but for 1 or more technical defects, including, but not limited to, errors involving names, spelling, addresses, or time of issue or filing or other defects that do not relate to the substance of the claim or action underlying the document.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.368;—Am. 1998, Act 360, Eff. Jan. 1, 1999;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See section 1 of Act 284 of 1927, being CL 1929, § 16596.