

# HOUSE BILL No. 5627

March 22, 1990, Introduced by Rep. Nye and referred to the Committee on Judiciary.

A bill to amend sections 479 and 479a of Act No. 328 of the Public Acts of 1931, entitled "The Michigan penal code," section 479a as amended by Act No. 407 of the Public Acts of 1988, being sections 750.479 and 750.479a of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 479 and 479a of Act No. 328 of the  
2 Public Acts of 1931, section 479a as amended by Act No. 407 of  
3 the Public Acts of 1988, being sections 750.479 and 750.479a of  
4 the Michigan Compiled Laws, are amended to read as follows:

5 Sec. 479. ~~Resisting, etc., officer in discharge of~~  
6 ~~duty Any person who shall knowingly and wilfully obstruct,~~  
7 ~~resist or oppose any sheriff, coroner, township treasurer,~~  
8 ~~constable or other officer or person duly authorized, in serving,~~

~~1 or attempting to serve or execute any process, rule or order made~~  
~~2 or issued by lawful authority, or who shall resist any officer in~~  
~~3 the execution of any ordinance, by law, or any rule, order or~~  
~~4 resolution made, issued, or passed by the common council of any~~  
~~5 city board of trustees, or common council or village council of~~  
~~6 any incorporated village, or township board of any township or~~  
~~7 who shall assault, beat or wound any sheriff, coroner, township~~  
~~8 treasurer, constable or other officer duly authorized, while~~  
~~9 serving, or attempting to serve or execute any such process, rule~~  
~~10 or order, or for having served, or attempted to serve or execute~~  
~~11 the same, or who shall so obstruct, resist, oppose, assault, beat~~  
~~12 or wound any of the above named officers, or any other person or~~  
~~13 persons authorized by law to maintain and preserve the peace, in~~  
~~14 their lawful acts, attempts and efforts to maintain, preserve and~~  
~~15 keep the peace, shall be guilty of a misdemeanor, punishable by~~  
~~16 imprisonment in the state prison not more than 2 years, or by a~~  
~~17 fine of not more than 1,000 dollars.~~ (1) EXCEPT AS PROVIDED IN  
18 SUBSECTION (2), A PERSON WHO KNOWINGLY AND WILLFULLY DOES 1 OR  
19 MORE OF THE FOLLOWING IS GUILTY OF A MISDEMEANOR PUNISHABLE BY  
20 IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN  
21 \$1,000.00, OR BOTH:

22 (A) OBSTRUCTS, RESISTS, OR OPPOSES AN OFFICER IN SERVING OR  
23 ATTEMPTING TO SERVE OR EXECUTE ANY PROCESS, RULE, OR ORDER MADE  
24 OR ISSUED BY LAWFUL AUTHORITY.

25 (B) RESISTS AN OFFICER IN THE EXECUTION OF AN ORDINANCE,  
26 BYLAW, RULE, ORDER, OR RESOLUTION MADE, ISSUED, OR PASSED BY THE  
27 GOVERNING BODY OF A CITY, VILLAGE, OR TOWNSHIP.

1 (C) OBSTRUCTS, RESISTS, OR OPPOSES AN OFFICER WHO IS ACTING  
2 OR ATTEMPTING TO ACT TO MAINTAIN, PRESERVE, OR KEEP THE PEACE.

3 (2) A PERSON WHO KNOWINGLY AND WILLFULLY ASSAULTS, BEATS, OR  
4 WOUNDS AN OFFICER WHILE THE OFFICER IS PERFORMING OR ATTEMPTING  
5 TO PERFORM, OR FOR HAVING PERFORMED OR ATTEMPTED TO PERFORM, A  
6 DUTY DESCRIBED IN SUBSECTION (1)(A) TO (C) IS GUILTY OF A  
7 FELONY.

8 (3) AS USED IN THIS SECTION, "OFFICER" MEANS A PEACE OFFI-  
9 CER, CORONER, TOWNSHIP TREASURER, CONSTABLE, OR OTHER PUBLIC  
10 OFFICER ACTING IN THE LAWFUL PERFORMANCE OF HIS OR HER DUTY.

11 Sec. 479a. (1) A driver of a motor vehicle who is given by  
12 hand, voice, emergency light, or siren a visual or audible signal  
13 by a police or conservation officer, acting in the lawful per-  
14 formance of his or her duty, directing the driver to bring his or  
15 her motor vehicle to a stop, and who willfully fails to obey that  
16 direction by increasing the speed of the vehicle, extinguishing  
17 the lights of the vehicle, or otherwise attempting to flee or  
18 elude the police or conservation officer, is guilty of a misde-  
19 meanor, and shall be punished by imprisonment for not less than  
20 30 days ~~nor~~ OR more than 1 year, and, in addition, may be fined  
21 not more than \$1,000.00 and may be ordered to pay the costs of  
22 prosecution. The court may depart from the minimum term of  
23 imprisonment authorized under this subsection if the court finds  
24 on the record that there are substantial and compelling reasons  
25 to do so and if the court imposes community service as a part of  
26 the sentence.

1       (2) Subsection (1) does not apply unless the police or  
2 conservation officer giving the signal is in uniform, and the  
3 vehicle driven by the police or conservation officer is identi-  
4 fied as an official police or department of natural resources  
5 vehicle.

6       (3) A person who forcibly assaults or commits a bodily  
7 injury ~~which~~ THAT requires medical care or attention upon a  
8 peace or police officer of this state while the peace or police  
9 officer is engaged in making a lawful arrest, knowing him or her  
10 to be a peace or police officer, is guilty of a FELONY.  
11 ~~misdemeanor, punishable by a fine of not more than \$1,000.00, or~~  
12 ~~by imprisonment for not more than 2 years, or both.~~

13       (4) A person who violates subsection (1) within 5 years of a  
14 prior conviction of a violation of subsection (1) is guilty of a  
15 felony, and shall be punished by imprisonment for a mandatory  
16 minimum term of not less than 1 year and a maximum term of not  
17 more than 4 years, and by a fine of not more than \$10,000.00,  
18 together with the costs of the prosecution.

19       (5) The driver of a motor vehicle who attempts to flee or  
20 elude a police or conservation officer in violation of subsection  
21 (1) and while attempting to so flee or elude causes serious  
22 bodily injury to a person, is guilty of a felony, and shall be  
23 punished by imprisonment for a minimum term of not less than 1  
24 year and a maximum term of not more than 4 years, and by a fine  
25 of not more than \$10,000.00, together with the costs of the  
26 prosecution. The court may depart from the minimum term of  
27 imprisonment authorized under this subsection if the court finds

1 on the record that there are substantial and compelling reasons  
2 to do so and if the court imposes community service as a part of  
3 the sentence.

4       (6) As part of the sentence for a violation of  
5 subsection (1), (4), or (5), the court shall order the secretary  
6 of state to suspend the person's operator's or chauffeur's  
7 license for a period of 1 year. The person shall not be eligible  
8 to receive a restricted license during the first 6 months of the  
9 period of suspension. If a term of imprisonment is served as a  
10 part of the sentence, the period of suspension of the person's  
11 license shall begin after the completion of the term of  
12 imprisonment.

13       (7) As used in this section, "serious bodily injury" means  
14 serious impairment of a body function or permanent serious  
15 disfigurement.