

HOUSE BILL No. 4240

February 6, 1997, Introduced by Rep. Kukuk and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 479a (MCL 750.479a), as amended by 1988 PA
407.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 479a. (1) A driver of a motor vehicle who is given by
2 hand, voice, emergency light, or siren a visual or audible signal
3 by a police or conservation officer, acting in the lawful per-
4 formance of his or her duty, directing the driver to bring his or
5 her motor vehicle to a stop, and who willfully fails to obey that
6 direction by increasing the speed of the vehicle, extinguishing
7 the lights of the vehicle, or otherwise attempting to flee or
8 elude the police or conservation officer, is guilty of a
9 misdemeanor — and shall be punished by imprisonment for not
10 less than 30 days nor more than 1 year — and, in addition, may

1 be fined not more than \$1,000.00 and may be ordered to pay the
2 costs of prosecution. The court may depart from the minimum term
3 of imprisonment authorized under this subsection if the court
4 finds on the record that there are substantial and compelling
5 reasons to do so and if the court imposes community service as a
6 part of the sentence.

7 (2) Subsection (1) does not apply unless the police or con-
8 servation officer giving the signal is in uniform ~~—~~ and the
9 vehicle driven by the police or conservation officer is identi-
10 fied as an official police or department of natural resources
11 vehicle.

12 (3) A person who forcibly assaults or commits a bodily
13 injury ~~which~~ THAT requires medical care or attention upon a
14 peace or police officer of this state while the peace or police
15 officer is engaged in making a lawful arrest, knowing ~~him or her~~
16 ~~to be~~ THAT HE OR SHE IS a peace or police officer, is guilty of
17 a misdemeanor ~~—~~ punishable by a fine of not more than \$1,000.00
18 ~~—~~ or ~~by~~ imprisonment for not more than 2 years, or both.

19 (4) A person who violates subsection (1) within 5 years of a
20 prior conviction of a violation of subsection (1) is guilty of a
21 felony ~~—~~ and shall be punished by imprisonment for ~~a mandatory~~
22 ~~minimum term of~~ not less than 1 year ~~and a maximum term of not~~
23 OR more than 4 years ~~—~~ and by a fine of not more than
24 \$10,000.00, together with the costs of the prosecution.

25 (5) The driver of a motor vehicle who attempts to flee or
26 elude a police or conservation officer in violation of subsection
27 (1) and while attempting to so flee or elude causes serious

1 bodily injury to a person ~~—,~~ is guilty of a felony ~~—,~~ and shall
2 be punished by imprisonment for ~~a minimum term of~~ not less than
3 1 year ~~and a maximum term of not~~ OR more than 4 years ~~—,~~ and
4 ~~by~~ a fine of not more than \$10,000.00, together with the costs
5 of the prosecution. The court may depart from the minimum term
6 of imprisonment authorized under this subsection if the court
7 finds on the record that there are substantial and compelling
8 reasons to do so and if the court imposes community service as a
9 part of the sentence.

10 (6) THE DRIVER OF A MOTOR VEHICLE WHO ATTEMPTS TO FLEE OR
11 ELUDE A POLICE OR CONSERVATION OFFICER IN VIOLATION OF SUBSECTION
12 (1) AND WHILE ATTEMPTING TO SO FLEE OR ELUDE CAUSES DEATH TO A
13 PERSON IS GUILTY OF A FELONY AND SHALL BE PUNISHED BY IMPRISON-
14 MENT FOR NOT LESS THAN 4 YEARS OR MORE THAN 15 YEARS AND A FINE
15 OF NOT MORE THAN \$15,000.00, TOGETHER WITH THE COSTS OF THE
16 PROSECUTION. THE COURT MAY DEPART FROM THE MINIMUM TERM OF
17 IMPRISONMENT AUTHORIZED UNDER THIS SUBSECTION IF THE COURT FINDS
18 ON THE RECORD THAT THERE ARE SUBSTANTIAL AND COMPELLING REASONS
19 TO DO SO AND IF THE COURT IMPOSES COMMUNITY SERVICE AS A PART OF
20 THE SENTENCE.

21 (7) ~~-(6)-~~ As part of the sentence for a violation of
22 subsection (1), (4), or (5), the court shall order the secretary
23 of state to suspend the person's operator's or chauffeur's
24 license for a period of 1 year. The person shall not be eligible
25 to receive a restricted license during the first 6 months of the
26 period of suspension. If a term of imprisonment is served as a
27 part of the sentence, the period of suspension of the person's

1 license shall begin after the completion of the term of
2 imprisonment.

3 (8) AS PART OF THE SENTENCE FOR A VIOLATION OF
4 SUBSECTION (6), THE COURT SHALL ORDER THE SECRETARY OF STATE TO
5 REVOKE THE PERSON'S OPERATOR'S OR CHAUFFEUR'S LICENSE. IF A TERM
6 OF IMPRISONMENT IS SERVED AS A PART OF THE SENTENCE, THE PERIOD
7 OF REVOCATION OF THE PERSON'S LICENSE SHALL BEGIN AFTER THE COM-
8 PLETION OF THE TERM OF IMPRISONMENT.

9 (9) ~~(7)~~ As used in this section, "serious bodily injury"
10 means serious impairment of a body function or permanent serious
11 disfigurement.

12 Enacting section 1. This amendatory act does not take
13 effect unless Senate Bill No. _____ or House Bill No. _____
14 (request no. 00290'97 a) of the 89th Legislature is enacted into
15 law.