

HOUSE BILL No. 4449

March 8, 2001, Introduced by Reps. Anderson, Jacobs, Schermesser, Neumann, Clark, Bovin, Dennis, Quarles, Richner and O'Neil and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 81 and 411a (MCL 750.81 and 750.411a),
section 81 as amended by 2000 PA 462 and section 411a as amended
by 2000 PA 370.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81. (1) A person who assaults or assaults and batters
2 an individual, if no other punishment is prescribed by law, is
3 guilty of a misdemeanor punishable by imprisonment for not more
4 than 90 days or a fine of not more than \$500.00, or both.

5 (2) Except as provided in subsection (3) or (4), an individ-
6 ual who assaults or assaults and batters his or her spouse or
7 former spouse, an individual with whom he or she has had a child
8 in common, or a resident or former resident of his or her
9 household, is guilty of a misdemeanor punishable by imprisonment

1 for not more than 93 days or a fine of not more than \$500.00, or
2 both.

3 (3) An individual who assaults or assaults and batters his
4 or her spouse or former spouse, an individual with whom he or she
5 has had a child in common, or a resident or former resident of
6 his or her household, in violation of subsection (2), and who has
7 previously been convicted of assaulting or assaulting and batter-
8 ing his or her spouse or former spouse, an individual with whom
9 he or she has had a child in common, or a resident or former res-
10 ident of his or her household, in violation of this section or a
11 local ordinance substantially corresponding to this section, or
12 in violation of section 81a, 82, 83, 84, or 86, may be punished
13 by imprisonment for not more than 1 year or a fine of not more
14 than \$1,000.00, or both.

15 (4) An individual who assaults or assaults and batters his
16 or her spouse or former spouse, an individual with whom he or she
17 has had a child in common, or a resident or former resident of
18 his or her household, in violation of subsection (2), and who has
19 2 or more previous convictions for assaulting or assaulting and
20 battering his or her spouse or former spouse, an individual with
21 whom he or she has had a child in common, or a resident or former
22 resident of his or her household, in violation of this section or
23 a local ordinance substantially corresponding to this section, or
24 in violation of section 81a, 82, 83, 84, or 86, is guilty of a
25 felony punishable by imprisonment for not more than 2 years or a
26 fine of not more than \$2,500.00, or both.

1 (5) This section does not apply to an individual using
2 necessary reasonable physical force in compliance with
3 section 1312 of the revised school code, 1976 PA 451, MCL
4 380.1312.

5 (6) IN ADDITION TO THE PENALTIES PRESCRIBED UNDER THIS SEC-
6 TION, THE COURT MAY REQUIRE A PERSON CONVICTED UNDER THIS SECTION
7 TO PAY THE MEDICAL EXPENSES, INCLUDING A PHYSICAL EXAMINATION
8 PERFORMED FOR EVIDENTIARY PURPOSES, INCURRED BY THE VICTIM OF THE
9 ASSAULT OR ASSAULT AND BATTERY.

10 Sec. 411a. (1) Except as provided in subsection (2), a
11 person who intentionally makes a false report of the commission
12 of a crime to a member of the Michigan state police, a sheriff or
13 deputy sheriff, a police officer of a city or village, or any
14 other peace officer of this state knowing the report is false is
15 guilty of a crime as follows:

16 (a) If the report is a false report of a misdemeanor, the
17 person is guilty of a misdemeanor punishable by imprisonment for
18 not more than 93 days or a fine of not more than \$100.00, or
19 both.

20 (b) If the report is a false report of a felony, the person
21 is guilty of a felony punishable by imprisonment for not more
22 than 4 years or a fine of not more than \$2,000.00, or both.

23 (C) IF THE FALSE REPORT RELATES TO AN ASSAULT OR AN ASSAULT
24 AND BATTERY UNDER SECTION 81(2) OR (3), THE PERSON SHALL BE
25 ORDERED BY THE COURT TO REIMBURSE THE PERSON FALSELY ACCUSED FOR
26 THE COST OF DEFENDING AGAINST THE FALSE ACCUSATION.

1 (2) A person shall not do either of the following:

2 (a) Knowingly make a false report of a violation or
3 attempted violation of chapter XXXIII or section 327 or 328 and
4 communicate the false report to any other person.

5 (b) Threaten to violate chapter XXXIII or section 327 or 328
6 and communicate the threat to any other person.

7 (3) A person who violates subsection (2) is guilty of a
8 felony punishable as follows:

9 (a) For a first conviction under subsection (2), by impris-
10 onment for not more than 4 years or a fine of not more than
11 \$2,000.00, or both.

12 (b) For a second or subsequent conviction under subsection
13 (2), imprisonment for not more than 10 years or a fine of not
14 more than \$5,000.00, or both.

15 (4) The court may order a person convicted under subsection
16 (2) to pay to the state or a local unit of government the costs
17 of responding to the false report including, but not limited to,
18 use of police or fire emergency response vehicles and teams.

19 (5) If the person ordered to pay costs under subsection (4)
20 is a juvenile under the jurisdiction of the family division of
21 the circuit court under chapter 10 of the revised judicature act
22 of 1961, 1961 PA 236, MCL 600.1001 to 600.1043, all of the fol-
23 lowing apply:

24 (a) If the court determines that the juvenile is or will be
25 unable to pay all of the costs ordered, after notice to the
26 juvenile's parent or parents and an opportunity for the parent or
27 parents to be heard, the court may order the parent or parents

1 having supervisory responsibility for the juvenile, at the time
2 of the acts upon which the order is based, to pay any portion of
3 the costs ordered that is outstanding. An order under this sub-
4 section does not relieve the juvenile of his or her obligation to
5 pay the costs as ordered, but the amount owed by the juvenile
6 shall be offset by any amount paid by his or her parent. As used
7 in this subsection, "parent" does not include a foster parent.

8 (b) If the court orders a parent to pay costs under subdivi-
9 sion (a), the court shall take into account the financial
10 resources of the parent and the burden that the payment of the
11 costs will impose, with due regard to any other moral or legal
12 financial obligations that the parent may have. If a parent is
13 required to pay the costs under subdivision (a), the court shall
14 provide for payment to be made in specified installments and
15 within a specified period of time.

16 (c) A parent who has been ordered to pay the costs under
17 subdivision (a) may petition the court for a modification of the
18 amount of the costs owed by the parent or for a cancellation of
19 any unpaid portion of the parent's obligation. The court shall
20 cancel all or part of the parent's obligation due if the court
21 determines that payment of the amount due will impose a manifest
22 hardship on the parent.

23 (6) As used in this section:

24 (a) "Local unit of government" means:

25 (i) A city, village, township, or county.

26 (ii) A local or intermediate school district.

- 1 (*iii*) A public school academy.
- 2 (*iv*) A community college.
- 3 (*b*) "State" includes a state institution of higher
- 4 education.