

## I. Michigan's Ethnic Intimidation Act

*The Michigan Penal Code (Excerpt) Act 328 Of 1931*

### *750.147b Ethnic intimidation.*

Sec. 147b. (1) A person is guilty of ethnic intimidation if that person maliciously, and with specific intent to intimidate or harass another person because of that person's **race, color, religion, gender, or national origin**, does any of the following:

- (a) Causes physical contact with another person.
  - (b) Damages, destroys, or defaces any real or personal property of another person.
  - (c) Threatens, by word or act, to do an act described in subdivision (a) or (b), if there is reasonable cause to believe that an act described in subdivision (a) or (b) will occur.
- (2) Ethnic intimidation is a felony punishable by imprisonment for not more than 2 years, or by a fine of not more than \$5,000.00, or both.
- (3) Regardless of the existence or outcome of any criminal prosecution, a person who suffers injury to his or her person or damage to his or her property as a result of ethnic intimidation may bring a civil cause of action against the person who commits the offense to secure an injunction, actual damages, including damages for 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 \$2,000.00, whichever is greater.
  - (b) Reasonable attorney fees and costs.

**History:** Add. 1988, Act 371, Eff. Mar. 30, 1989. **Popular name:** Ethnic Intimidation. **Popular name:** Hate Crimes

## II. Federal Criminal Civil Rights Statutes

Congress has enacted laws that provide both criminal and civil remedies to victims of bias-motivated crimes. Five principal Federal criminal statutes concern racial- and religious-motivated violence by private individuals and individuals acting "under color of law":

### *18 U.S.C. Section 241: Conspiracy Against Rights*

- Broadly prohibits conspiracies to injure, oppress, threaten or intimidate any person in the free exercise of rights protected by the Constitution or laws of the United States.
- Statute has been applied to a variety of Federal rights, including the right own property, make contracts, enjoy the use of public accommodations, the right to vote, and the right to occupy a home without regard to race.
- This is always a felony.

### *18 U.S.C. Section 242: Deprivation of Rights Under Color of Law*

- Prohibits any person acting under color or law, statute, ordinance, regulation, or custom to willfully deprive or cause to be deprived from any inhabitant those rights protected by the Constitution or laws of the United States.

- Statute provides that, in order for unlawful acts of any official to be done under “color of any law,” the unlawful acts must be done while such official is purporting or pretending to act in the performance of his/her official duties.
- A private citizen, who is a willful participant with Federal, state or local officials in the commission of “color of law” violations may also be charged.

***18 U.S.C. Section 245: Interference with Federal Protected Activities***

- Enacted in 1968 in response to violent attacks on civil rights workers in the South.
- Prohibits intentional interference, by force or threat of force, with certain specified constitutional rights, including voting and election activities, participation in programs administered or financed by the United States, Federal employment, and jury service.
- A second provision prohibits intentional interference with enrollment in a public school or college, interstate travel by common carrier, use of restaurants, lodging, gas stations, public entertainment facilities, and other establishments serving the public, State jury service and interference with employment (whether public or private), where the interference is motivated by discrimination on the basis of race, color, religion, or national origin.
- Also protects individuals who are helping others enjoy the free exercise of these rights.

***18 U.S.C. Section 247: Damage to Religious Property/Obstruction of Religious Activity***

- Prohibits damaging or destroying religious property because of the religious nature of that property, or attempting to do so.
- Also prohibits intentional obstruction by force or threat of force of any person in the free exercise of religious beliefs.
- Requires connection with interstate commerce, unless involves racially or ethnically motivated interference.

***42 U.S.C. Section 3631: Willful Interference with Civil Rights Under the Fair Housing Act***

- Prohibits interference by force or threat of force with any person in selling, purchasing, renting, financing, occupying, or contracting for any dwelling due to that person’s race, color, religion, sex, handicap, familial status, or national origin.
- Commonly includes cross-burnings and threats.

### III. Reporting and Statistics

#### *Federal Hate Crime Statistics Act, 28 U.S.C. § 534*

**Congress mandates the collection of hate crime data:** On April 23, 1990, Congress passed the Hate Crime Statistics Act, which required the Attorney General to collect data “about crimes that manifest evidence of prejudice based on **race, religion, sexual orientation, or ethnicity.**” The Attorney General delegated the responsibilities of developing the procedures for implementing, collecting, and managing hate crime data to the Director of the FBI, who in turn assigned the tasks to the **Uniform Crime Reporting (UCR) Program.** Under the direction of the Attorney General and with the cooperation and assistance of many local and state law enforcement agencies, the UCR Program created a hate crime data collection system to comply with the congressional mandate. In September 1994, lawmakers amended the Hate Crime Statistics Act to include bias against persons with **disabilities** by passing the Violent Crime and Law Enforcement Act of 1994. The FBI started gathering data for the additional bias type on January 1, 1997.

(From: *Hate Crime Statistics, 2005 U.S. Department of Justice*—Federal Bureau of Investigation Released October 2006).

#### *Michigan’s Uniform Crime Reporting System (Excerpt) Act 319 Of 1968*

##### **28.251 Uniform crime reports; duties of police departments to file, contents.**

Sec. 1. The police department of each city or village, any duly constituted police department of a township, and the sheriff's department of each county, once each month upon a date and form prescribed and furnished by the director of the department of state police, shall forward to the department of state police a crime report. Each reporting department shall report only on cases within its jurisdiction and upon which it is making, or has made, the primary police investigation. The report shall be called the **uniform crime report** and shall cover crimes reported and otherwise processed during the month preceding the month of the report. It shall contain the number and nature of offenses committed, the disposition of such offenses and such other information as the director of state police shall specify relating to the method, frequency, cause and prevention of crime. Under no circumstances shall the name of any person be reported.

*History: 1968, Act 319, Imd. Eff. July 3, 1968*

##### **28.257a Crimes motivated by prejudice or bias; report.**

Sec. 7a. The chief of police of each city or village, the chief of police of each township having a police department, and the sheriff of each county within this state shall report to the department of state police, in a manner prescribed by the department, information specified under section 1 related to crimes motivated by prejudice or bias based upon **race, ethnic origin, religion, gender, or sexual orientation.**

*History: Add. 1991, Act 172, Eff. Mar. 30, 1992.*