

SENATE BILL No. 356

April 20, 1989, Introduced by Senators WELBORN, DINGELL, ARTHURHULTZ, O'BRIEN and N. SMITH and referred to the Committee on Criminal Justice and Urban Affairs.

A bill to amend sections 89, 91, 157b, 317, 328, 349, 349a, 520b, and 529 of Act No. 328 of the Public Acts of 1931, entitled "The Michigan penal code," section 157b as amended by Act No. 124 of the Public Acts of 1986 and section 520b as amended by Act No. 158 of the Public Acts of 1983, being sections 750.89, 750.91, 750.157b, 750.317, 750.328, 750.349, 750.349a, 750.520b, and 750.529 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 89, 91, 157b, 317, 328, 349, 349a,
2 520b, and 529 of Act No. 328 of the Public Acts of 1931, section
3 157b as amended by Act No. 124 of the Public Acts of 1986 and
4 section 520b as amended by Act No. 158 of the Public Acts of
5 1983, being sections 750.89, 750.91, 750.157b, 750.317, 750.328,

1 750.349, 750.349a, 750.520b, and 750.529 of the Michigan Compiled
2 Laws, are amended to read as follows:

3 Sec. 89. (1) ~~Assault with intent to rob and steal being~~
4 ~~armed Any~~ EXCEPT AS PROVIDED IN SUBSECTION (2), A person,
5 ~~being~~ WHO IS armed with a dangerous weapon, or any article used
6 or fashioned in a manner to lead a person ~~so~~ assaulted BY THAT
7 PERSON TO reasonably ~~to~~ believe ~~it to be~~ THE ARTICLE IS a
8 dangerous weapon, who ~~shall assault~~ ASSAULTS another PERSON
9 with THE intent to rob and steal ~~shall be~~ FROM THAT PERSON IS
10 guilty of a felony, punishable by imprisonment ~~in the state~~
11 ~~prison~~ for life, or for any term of years.

12 (2) A PERSON WHO IS ARMED WITH A DANGEROUS WEAPON OR ANY
13 ARTICLE USED OR FASHIONED IN A MANNER TO LEAD A PERSON ASSAULTED
14 BY THAT PERSON TO REASONABLY BELIEVE THE ARTICLE IS A DANGEROUS
15 WEAPON WHO ASSAULTS ANOTHER PERSON WITH THE INTENT TO ROB AND
16 STEAL FROM THAT PERSON AND CAUSES SERIOUS INJURY TO THAT PERSON
17 IS GUILTY OF A HEINOUS CRIME PUNISHABLE BY IMPRISONMENT FOR LIFE
18 WITHOUT ELIGIBILITY FOR PAROLE, OR AS PROVIDED UNDER SUBSECTION
19 (1).

20 (3) AS USED IN THIS SECTION, "SERIOUS INJURY" MEANS GREAT
21 BODILY HARM THAT CREATES A SUBSTANTIAL RISK OF DEATH OR SERIOUS
22 PERMANENT DISFIGUREMENT, OR THAT SERIOUSLY AND PERMANENTLY
23 IMPAIRS THE HEALTH OR FUNCTION OF THE BODY, OR THAT CAUSES SUB-
24 STANTIAL IMPAIRMENT OF ANY BODILY PART.

25 Sec. 91. (1) ~~Attempt to murder by poisoning, etc. Any~~
26 EXCEPT AS PROVIDED IN SUBSECTION (2), A person who ~~shall~~
27 ~~attempt~~ ATTEMPTS to commit the crime of murder by poisoning,

1 drowning, or strangling another person, or by any means not
2 constituting the crime of assault with intent to murder, ~~shall~~
3 ~~be~~ IS guilty of a felony, punishable by imprisonment ~~in the~~
4 ~~state prison~~ for life or any term of years.

5 (2) A PERSON WHO ATTEMPTS TO COMMIT THE CRIME OF MURDER BY
6 POISONING, DROWNING, OR STRANGLING ANOTHER PERSON, OR BY ANY
7 MEANS NOT CONSTITUTING THE CRIME OF ASSAULT WITH INTENT TO
8 MURDER, AND CAUSES SERIOUS INJURY TO THAT PERSON, IS GUILTY OF A
9 HEINOUS CRIME PUNISHABLE BY IMPRISONMENT FOR LIFE WITHOUT ELIGI-
10 BILITY FOR PAROLE, OR AS PROVIDED UNDER SUBSECTION (1).

11 (3) AS USED IN THIS SECTION, "SERIOUS INJURY" MEANS GREAT
12 BODILY HARM THAT CREATES A SUBSTANTIAL RISK OF DEATH OR SERIOUS
13 PERMANENT DISFIGUREMENT, OR THAT SERIOUSLY AND PERMANENTLY
14 IMPAIRS THE HEALTH OR FUNCTION OF THE BODY, OR THAT CAUSES SUB-
15 STANTIAL IMPAIRMENT OF ANY BODILY PART.

16 Sec. 157b. (1) ~~For purposes of~~ AS USED IN this section,
17 "solicit" means to offer to give, promise to give, or give any
18 money, services, or anything of value TO ANOTHER PERSON, or to
19 ~~forgive~~ or promise to forgive a debt or obligation OF ANOTHER
20 PERSON.

21 (2) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (3), A person who
22 solicits another person to commit murder, or who solicits another
23 person to do or omit to do an act which if completed would con-
24 stitute murder, is guilty of a felony punishable by imprisonment
25 for life or any term of years.

26 (3) A PERSON WHO SOLICITS ANOTHER PERSON TO COMMIT MURDER,
27 OR WHO SOLICITS ANOTHER PERSON TO DO OR OMIT TO DO AN ACT WHICH

1 IF COMPLETED WOULD CONSTITUTE MURDER, AND BY THAT SOLICITATION
2 CAUSES SERIOUS INJURY TO ANOTHER PERSON, IS GUILTY OF A HEINOUS
3 CRIME PUNISHABLE BY IMPRISONMENT FOR LIFE WITHOUT ELIGIBILITY FOR
4 PAROLE, OR AS PROVIDED UNDER SUBSECTION (2).

5 (4) AS USED IN THIS SECTION, "SERIOUS INJURY" MEANS GREAT
6 BODILY HARM THAT CREATES A SUBSTANTIAL RISK OF DEATH OR SERIOUS
7 PERMANENT DISFIGUREMENT, OR THAT SERIOUSLY AND PERMANENTLY
8 IMPAIRS THE HEALTH OR FUNCTION OF THE BODY, OR THAT CAUSES SUB-
9 STANTIAL IMPAIRMENT OF ANY BODILY PART.

10 (5) ~~(3)~~ Except as provided in subsection ~~(2)~~ (3), a
11 person who solicits another person to commit a felony, or who
12 solicits another person to do or omit to do an act which if com-
13 pleted would constitute a felony, is punishable as follows:

14 (a) If the offense solicited is a felony punishable by
15 imprisonment for life, or for 5 years or more, the person is
16 guilty of a felony punishable by imprisonment for not more than 5
17 years, or by a fine OF not ~~to exceed~~ MORE THAN \$5,000.00, or
18 both.

19 (b) If the offense solicited is a felony punishable by
20 imprisonment for a term less than 5 years or by a fine, the
21 person is guilty of a misdemeanor punishable by imprisonment for
22 not more than 2 years, or by a fine OF not ~~to exceed~~ MORE THAN
23 \$1,000.00, or both, except that a term of imprisonment shall not
24 exceed 1/2 of the maximum imprisonment ~~which~~ THAT can be
25 imposed if the offense solicited is committed.

26 (6) ~~(4)~~ It is an affirmative defense to a prosecution
27 under this section that, under circumstances manifesting a

1 voluntary and complete renunciation of his or her criminal
 2 purpose, the actor notified the person solicited of his or her
 3 renunciation and either gave timely warning and cooperation to
 4 appropriate law enforcement authorities or otherwise made a sub-
 5 stantial effort to prevent the performance of the criminal con-
 6 duct commanded or solicited, provided that conduct does not
 7 occur. The defendant shall establish by a preponderance of the
 8 evidence the affirmative defense under this subsection.

9 Sec. 317. (1) ~~Second degree murder All other kinds of~~
 10 ~~murder shall be~~ EXCEPT AS PROVIDED IN SUBSECTION (2), MURDER,
 11 OTHER THAN MURDER OF THE FIRST DEGREE, IS murder of the second
 12 degree, and shall be punished by imprisonment ~~in the state~~
 13 ~~prison~~ for life, or any term of years. ~~, in the discretion of~~
 14 ~~the court trying the same.~~

15 (2) MURDER IN THE SECOND DEGREE OF A PEACE OFFICER, EMPLOYEE
 16 OF THE MICHIGAN DEPARTMENT OF CORRECTIONS, OR A JAIL EMPLOYEE,
 17 ACTING IN THE LINE OF DUTY, IS A HEINOUS CRIME PUNISHABLE BY
 18 IMPRISONMENT FOR LIFE WITHOUT ELIGIBILITY FOR PAROLE, OR AS PRO-
 19 VIDED UNDER SUBSECTION (1).

20 (3) AS USED IN THIS SECTION, "SERIOUS INJURY" MEANS GREAT
 21 BODILY HARM THAT CREATES A SUBSTANTIAL RISK OF DEATH OR SERIOUS
 22 PERMANENT DISFIGUREMENT, OR THAT SERIOUSLY AND PERMANENTLY
 23 IMPAIRS THE HEALTH OR FUNCTION OF THE BODY, OR THAT CAUSES SUB-
 24 STANTIAL IMPAIRMENT OF ANY BODILY PART.

25 Sec. 328. (1) ~~Death from explosives placed with intent to~~
 26 ~~destroy, etc., building or object Any~~ A person who, with intent
 27 to destroy, throw down, or injure the whole or any part of ~~any~~

1 A building or object, places or causes to be placed in, upon,
 2 under, against, or near ~~such~~ THAT building or object, ~~any~~ gun
 3 powder or ANY other explosive substance ~~which~~ THAT, upon
 4 explosion, causes the death of ~~any~~ ANOTHER person, ~~shall be~~
 5 IS guilty of a felony, punishable by imprisonment ~~in the state~~
 6 ~~prison~~ for life or any term of years.

7 (2) A PERSON WHO, WITH INTENT TO DESTROY, THROW DOWN, OR
 8 INJURE THE WHOLE OR ANY PART OF A BUILDING OR OBJECT, PLACES OR
 9 CAUSES TO BE PLACED IN, UPON, UNDER, AGAINST, OR NEAR THAT BUILD-
 10 ING OR OBJECT GUN POWDER OR ANY OTHER EXPLOSIVE SUBSTANCE THAT,
 11 UPON EXPLOSION, CAUSES SERIOUS INJURY TO ANOTHER PERSON, IS
 12 GUILTY OF A HEINOUS CRIME, PUNISHABLE BY IMPRISONMENT FOR LIFE
 13 WITHOUT ELIGIBILITY FOR PAROLE.

14 (3) AS USED IN THIS SECTION, "SERIOUS INJURY" MEANS GREAT
 15 BODILY HARM THAT CREATES A SUBSTANTIAL RISK OF DEATH OR SERIOUS
 16 PERMANENT DISFIGUREMENT, OR THAT SERIOUSLY AND PERMANENTLY
 17 IMPAIRS THE HEALTH OR FUNCTION OF THE BODY, OR THAT CAUSES SUB-
 18 STANTIAL IMPAIRMENT OF ANY BODILY PART.

19 Sec. 349. (1) ~~Confining person against will, etc. Any~~
 20 EXCEPT AS PROVIDED IN SUBSECTION (2), A person who ~~wilfully~~
 21 WILLFULLY, maliciously, and without lawful authority ~~shall~~
 22 forcibly or secretly ~~confine or imprison any other~~ CONFINES OR
 23 IMPRISONS ANOTHER person within this state against his OR HER
 24 will, or ~~shall forcibly carry or send such~~ WHO FORCIBLY CARRIES
 25 OR SENDS THAT person out of this state, or ~~shall forcibly seize~~
 26 ~~or confine, or shall inveigle or kidnap any other~~ WHO FORCIBLY
 27 SEIZES, CONFINES, INVEIGLES, OR KIDNAPS ANOTHER person with THE

1 intent to extort money or ANY other valuable thing ~~thereby~~ OR
2 POLITICAL OBJECTIVE FROM THAT PERSON OR FROM ANOTHER PERSON, or
3 with THE intent ~~either~~ to cause ~~such~~ THAT person to be
4 secretly confined or imprisoned in this state against his OR HER
5 will, or in any way held to service against his OR HER will,
6 ~~shall be~~ IS guilty of a felony, punishable by imprisonment ~~in~~
7 ~~the state prison~~ for life or for any term of years.

8 (2) A PERSON WHO WILLFULLY, MALICIOUSLY, AND WITHOUT LAWFUL
9 AUTHORITY FORCIBLY OR SECRETLY CONFINES OR IMPRISONS ANOTHER
10 PERSON WITHIN THIS STATE AGAINST HIS OR HER WILL, OR WHO FORCIBLY
11 CARRIES OR SENDS THAT PERSON OUT OF THIS STATE, OR WHO FORCIBLY
12 SEIZES, CONFINES, INVEIGLES, OR KIDNAPS ANOTHER PERSON WITH THE
13 INTENT TO EXTORT MONEY OR ANY OTHER VALUABLE THING OR POLITICAL
14 OBJECTIVE FROM THAT PERSON OR FROM ANOTHER PERSON, OR WITH THE
15 INTENT TO CAUSE THAT PERSON TO BE SECRETLY CONFINED OR IMPRISONED
16 IN THIS STATE AGAINST HIS OR HER WILL, OR IN ANY WAY HELD TO
17 SERVICE AGAINST HIS OR HER WILL AND CAUSES SERIOUS INJURY TO THAT
18 PERSON, IS GUILTY OF A HEINOUS CRIME, PUNISHABLE BY IMPRISONMENT
19 FOR LIFE WITHOUT ELIGIBILITY FOR PAROLE, OR AS PROVIDED UNDER
20 SUBSECTION (1).

21 (3) AS USED IN THIS SECTION, "SERIOUS INJURY" MEANS GREAT
22 BODILY HARM THAT CREATES A SUBSTANTIAL RISK OF DEATH OR SERIOUS
23 PERMANENT DISFIGUREMENT, OR THAT SERIOUSLY AND PERMANENTLY
24 IMPAIRS THE HEALTH OR FUNCTION OF THE BODY, OR THAT CAUSES SUB-
25 STANTIAL IMPAIRMENT OF ANY BODILY PART.

26 (4) ~~(3) Every offense mentioned in~~ A VIOLATION OF this
27 section may be tried ~~either~~ in the county in which ~~the same~~

1 ~~may have been~~ THE VIOLATION WAS committed, or in any county in
2 WHICH, or through which, the person so seized, taken, inveigled,
3 OR kidnaped, or whose services ~~shall be~~ WERE sold or trans-
4 ferred, ~~shall have been~~ IS taken, confined, held, carried, or
5 brought. ~~, and upon the trial of any such offense, the~~ THE
6 consent ~~thereto~~ of the person ~~, so~~ taken, inveigled,
7 kidnaped, or confined ~~, shall~~ IS not ~~be~~ a defense FOR A VIO-
8 LATION OF THIS ACT, unless ~~it shall be made satisfactorily to~~
9 ~~appear to the jury~~ that ~~such~~ consent was not obtained by fraud
10 ~~nor~~ OR extorted by duress or ~~by~~ threats.

11 Sec. 349a. (1) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (2), A
12 person imprisoned in ~~any~~ A penal or correctional institution
13 ~~located~~ in this state who takes, holds, carries away, decoys,
14 entices away, or secretes another person as a hostage by means of
15 threats, coercion, intimidation, or physical force is guilty of a
16 felony, and shall be imprisoned ~~in the state prison~~ for life,
17 or FOR any term of years. ~~, which shall be served as a consecu-~~
18 ~~tive sentence.~~

19 (2) A PERSON IMPRISONED IN A PENAL OR CORRECTIONAL INSTITU-
20 TION IN THIS STATE WHO TAKES, HOLDS, CARRIES AWAY, DECOYS,
21 ENTICES AWAY, OR SECRETES ANOTHER PERSON AS A HOSTAGE BY MEANS OF
22 THREATS, COERCION, INTIMIDATION, OR PHYSICAL FORCE AND CAUSES
23 SERIOUS INJURY TO THAT PERSON IS GUILTY OF A HEINOUS CRIME, PUN-
24 ISHABLE BY IMPRISONMENT FOR LIFE WITHOUT ELIGIBILITY FOR PAROLE,
25 OR AS PROVIDED UNDER SUBSECTION (1).

26 (3) AS USED IN THIS SECTION, "SERIOUS INJURY" MEANS GREAT
27 BODILY HARM THAT CREATES A SUBSTANTIAL RISK OF DEATH OR SERIOUS

1 PERMANENT DISFIGUREMENT, OR THAT SERIOUSLY AND PERMANENTLY
2 IMPAIRS THE HEALTH OR FUNCTION OF THE BODY, OR THAT CAUSES SUB-
3 STANTIAL IMPAIRMENT OF ANY BODILY PART.

4 (4) A SENTENCE IMPOSED FOR A VIOLATION OF THIS SECTION SHALL
5 BE SERVED AS A CONSECUTIVE SENTENCE.

6 Sec. 520b. (1) A person is guilty of criminal sexual con-
7 duct in the first degree if he or she engages in sexual penetra-
8 tion with another person and if any of the following circum-
9 stances exists:

10 (a) That other person is under 13 years of age.

11 (b) That other person is at least 13 but less than 16 years
12 of age and any of the following:

13 (i) The actor is a member of the same household as the
14 victim.

15 (ii) The actor is related to the victim by blood or affinity
16 to the fourth degree.

17 (iii) The actor is in a position of authority over the
18 victim and used this authority to coerce the victim to submit.

19 (c) Sexual penetration occurs under circumstances involving
20 the commission of any other felony.

21 (d) The actor is aided or abetted by 1 or more other persons
22 and either of the following circumstances exists:

23 (i) The actor knows or has reason to know that the victim is
24 mentally incapable, mentally incapacitated, or physically
25 helpless.

26 (ii) The actor uses force or coercion to accomplish the
27 sexual penetration. Force or coercion includes but is not

1 limited to any of the circumstances listed in subdivision (f)(i)
2 to (v).

3 (e) The actor is armed with a weapon or any article used or
4 fashioned in a manner to lead the victim to reasonably believe it
5 to be a weapon.

6 (f) The actor causes personal injury OTHER THAN SERIOUS
7 INJURY to the victim and force or coercion is used to accomplish
8 sexual penetration. Force or coercion includes but is not
9 limited to any of the following circumstances:

10 (i) When the actor overcomes the victim through the actual
11 application of physical force or physical violence.

12 (ii) When the actor coerces the victim to submit by threat-
13 ening to use force or violence on the victim, and the victim
14 believes that the actor has the present ability to execute these
15 threats.

16 (iii) When the actor coerces the victim to submit by threat-
17 ening to retaliate in the future against the victim, or any other
18 person, and the victim believes that the actor has the ability to
19 execute this threat. As used in this subdivision, "to retaliate"
20 includes threats of physical punishment, kidnapping, or
21 extortion.

22 (iv) When the actor engages in the medical treatment or
23 examination of the victim in a manner or for purposes which are
24 medically recognized as unethical or unacceptable.

25 (v) When the actor, through concealment or by the element of
26 surprise, is able to overcome the victim.

1 (g) The actor causes personal injury to the victim, and the
2 actor knows or has reason to know that the victim is mentally
3 incapable, mentally incapacitated, or physically helpless.

4 (h) That other person is mentally incapable, mentally dis-
5 abled, mentally incapacitated, or physically helpless, and any of
6 the following:

7 (i) The actor is related to the victim by blood or affinity
8 to the fourth degree.

9 (ii) The actor is in a position of authority over the victim
10 and used this authority to coerce the victim to submit.

11 (2) ~~Criminal~~ EXCEPT AS PROVIDED IN SUBSECTION (3),
12 CRIMINAL sexual conduct in the first degree is a felony punish-
13 able by imprisonment in the state prison for life or for any term
14 of years.

15 (3) A PERSON WHO COMMITS ANY ACT PROSCRIBED UNDER SUBSECTION
16 (F)(i) OR (G) AND CAUSES SERIOUS INJURY TO ANOTHER PERSON IS
17 GUILTY OF A HEINOUS CRIME, PUNISHABLE BY IMPRISONMENT FOR LIFE
18 WITHOUT ELIGIBILITY FOR PAROLE, OR AS PROVIDED UNDER SUBSECTION
19 (2).

20 (4) AS USED IN THIS SECTION, "SERIOUS INJURY" MEANS GREAT
21 BODILY HARM THAT CREATES A SUBSTANTIAL RISK OF DEATH OR SERIOUS
22 PERMANENT DISFIGUREMENT, OR THAT SERIOUSLY AND PERMANENTLY
23 IMPAIRS THE HEALTH OR FUNCTION OF THE BODY, OR THAT CAUSES SUB-
24 STANTIAL IMPAIRMENT OF ANY BODILY PART.

25 Sec. 529. (1) ~~Any~~ EXCEPT AS PROVIDED UNDER SUBSECTION
26 (2), A person who ~~shall assault~~ ASSAULTS another ~~PERSON~~ and
27 ~~shall feloniously rob, steal and take from his~~ ROBS, STEALS,

1 AND TAKES FROM THAT person, or in ~~his~~ THAT PERSON'S presence,
2 any money or other property ~~, which~~ THAT may be the subject of
3 larceny, ~~such robber being~~ AND WHO IS armed with a dangerous
4 weapon ~~,~~ or any article used or fashioned in a manner to lead
5 the person ~~so~~ assaulted to reasonably believe ~~it to be~~ THE
6 ARTICLE IS a dangerous weapon, ~~shall be~~ IS guilty of a felony,
7 punishable by imprisonment ~~in the state prison~~ for life or for
8 any term of years. If an aggravated assault or serious injury is
9 inflicted by any person while committing an armed robbery as
10 defined in this section, the sentence shall be not less than 2
11 years' imprisonment in the state prison.

12 (2) A PERSON WHO ASSAULTS ANOTHER PERSON AND FELONIOUSLY
13 ROBS, STEALS, AND TAKES FROM HIS OR HER PERSON OR IN HIS OR HER
14 PRESENCE ANY MONEY OR OTHER PROPERTY THAT MAY BE THE SUBJECT OF
15 LARCENY, AND WHO IS ARMED WITH A DANGEROUS WEAPON OR ANY ARTICLE
16 USED OR FASHIONED IN A MANNER TO LEAD THE PERSON ASSAULTED TO
17 REASONABLY BELIEVE THE ARTICLE IS A DANGEROUS WEAPON, AND WHO
18 CAUSES SERIOUS INJURY TO ANOTHER PERSON IS GUILTY OF A HEINOUS
19 CRIME, PUNISHABLE BY IMPRISONMENT FOR LIFE WITHOUT ELIGIBILITY
20 FOR PAROLE, OR AS PROVIDED UNDER SUBSECTION (1).

21 (3) AS USED IN SUBSECTION (2), "SERIOUS INJURY" MEANS GREAT
22 BODILY HARM THAT CREATES A SUBSTANTIAL RISK OF DEATH OR SERIOUS
23 PERMANENT DISFIGUREMENT, OR THAT SERIOUSLY AND PERMANENTLY
24 IMPAIRS THE HEALTH OR FUNCTION OF THE BODY, OR THAT CAUSES SUB-
25 STANTIAL IMPAIRMENT OF ANY BODILY PART.