

HOUSE BILL NO. 5716

February 02, 2022, Introduced by Reps. Roth, O'Malley, Borton, Markkanen, Allor, Coleman, Liberati, Outman, Kahle, Breen, Sneller, Yaroch, Brixie, Brenda Carter, Cynthia Johnson, Steenland, Hope, Weiss, Neeley, Peterson, Rogers, Brabec, Clemente and Bezotte and referred to the Committee on Health Policy.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 520d (MCL 750.520d), as amended by 2012 PA 372,
and by adding section 219g.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 219g. (1) A person who engages in a practice or act the
2 person knows or reasonably should know provides false or misleading
3 information related to an assisted reproduction procedure,
4 including by making a false or misleading representation relating

1 to any of the following, is guilty of a felony punishable by
2 imprisonment for not more than 5 years or a fine of not more than
3 \$50,000.00, or both:

4 (a) The human embryo or gamete used or provided for assisted
5 reproduction.

6 (b) The identity of a donor of the human embryo or gamete used
7 or provided for assisted reproduction including, but not limited
8 to, the donor's name, birthdate, or address at the time of
9 donation.

10 (c) A donor's medical history including, but not limited to,
11 present illness of the donor at time of donation, any past
12 illnesses of the donor, the social, genetic, or family history of
13 the donor, or the donor's education, ethnicity, or religious
14 background.

15 (2) A health professional who knowingly or recklessly uses or
16 provides a human embryo or gamete for assisted reproduction other
17 than the specific human embryo or gamete to which the patient
18 expressly consented in writing is guilty of a felony punishable by
19 imprisonment for not more than 5 years or a fine of not more than
20 \$100,000.00, or both.

21 (3) As used in this section:

22 (a) "Assisted reproduction" means a method of causing
23 pregnancy other than sexual intercourse.

24 (b) "Donor" means an individual who provides gametes intended
25 for use in assisted reproduction, regardless of whether or not the
26 individual receives financial compensation for the donation.

27 (c) "Gamete" means sperm, egg, or any part of a sperm or egg.

28 (d) "Health professional" means an individual licensed,
29 registered, certified, or otherwise authorized to engage in a

1 health profession under article 15 of the public health code, 1978
2 PA 368, MCL 333.16101 to 333.18838.

3 (e) "Human embryo" means a human organism at any stage of
4 development from fertilized ovum to embryo.

5 (f) "Patient" means an individual under the care of a health
6 professional.

7 Sec. 520d. (1) A person is guilty of criminal sexual conduct
8 in the third degree if the person engages in sexual penetration
9 with another person and if any of the following circumstances
10 exist:

11 (a) That other person is at least 13 years of age and under 16
12 years of age.

13 (b) Force or coercion is used to accomplish the sexual
14 penetration. Force or coercion includes, but is not limited to, any
15 of the circumstances listed in section 520b(1) (f) (i) to (v).

16 (c) The actor knows or has reason to know that the victim is
17 mentally incapable, mentally incapacitated, or physically helpless.

18 (d) That other person is related to the actor by blood or
19 affinity to the third degree and the sexual penetration occurs
20 under circumstances not otherwise prohibited by this chapter. It is
21 an affirmative defense to a prosecution under this subdivision that
22 the other person was in a position of authority over the defendant
23 and used this authority to coerce the defendant to violate this
24 subdivision. The defendant has the burden of proving this defense
25 by a preponderance of the evidence. This subdivision does not apply
26 if both persons are lawfully married to each other at the time of
27 the alleged violation.

28 (e) That other person is at least 16 years of age but less
29 than 18 years of age and a student at a public school or nonpublic

1 school, and either of the following applies:

2 (i) The actor is a teacher, substitute teacher, or
3 administrator of that public school, nonpublic school, school
4 district, or intermediate school district. This subparagraph does
5 not apply if the other person is emancipated or if both persons are
6 lawfully married to each other at the time of the alleged
7 violation.

8 (ii) The actor is an employee or a contractual service provider
9 of the public school, nonpublic school, school district, or
10 intermediate school district in which that other person is
11 enrolled, or is a volunteer who is not a student in any public
12 school or nonpublic school, or is an employee of this state or of a
13 local unit of government of this state or of the United States
14 assigned to provide any service to that public school, nonpublic
15 school, school district, or intermediate school district, and the
16 actor uses his or her employee, contractual, or volunteer status to
17 gain access to, or to establish a relationship with, that other
18 person.

19 (f) That other person is at least 16 years old but less than
20 26 years of age and is receiving special education services, and
21 either of the following applies:

22 (i) The actor is a teacher, substitute teacher, administrator,
23 employee, or contractual service provider of the public school,
24 nonpublic school, school district, or intermediate school district
25 from which that other person receives the special education
26 services. This subparagraph does not apply if both persons are
27 lawfully married to each other at the time of the alleged
28 violation.

29 (ii) The actor is a volunteer who is not a student in any

1 public school or nonpublic school, or is an employee of this state
2 or of a local unit of government of this state or of the United
3 States assigned to provide any service to that public school,
4 nonpublic school, school district, or intermediate school district,
5 and the actor uses his or her employee, contractual, or volunteer
6 status to gain access to, or to establish a relationship with, that
7 other person.

8 (g) The actor is an employee, contractual service provider, or
9 volunteer of a child care organization, or a person licensed to
10 operate a foster family home or a foster family group home, in
11 which that other person is a resident, that other person is at
12 least 16 years of age, and the sexual penetration occurs during
13 that other person's residency. As used in this subdivision, "child
14 care organization", "foster family home", and "foster family group
15 home" mean those terms as defined in section 1 of 1973 PA 116, MCL
16 722.111.

17 **(2) A person is guilty of criminal sexual conduct in the third**
18 **degree if the person is a health professional and knowingly causes**
19 **his or her own human embryo or gamete to be implanted into a**
20 **patient through assisted reproduction without the patient's prior**
21 **knowledge and express written consent.**

22 (3) ~~(2)~~—Criminal sexual conduct in the third degree is a
23 felony punishable by imprisonment for not more than 15 years.

24 (4) **As used in this section:**

25 (a) **"Assisted reproduction" means a method of causing**
26 **pregnancy other than sexual intercourse.**

27 (b) **"Gamete" means sperm, egg, or any part of a sperm or egg.**

28 (c) **"Health professional" means an individual licensed,**
29 **registered, certified, or otherwise authorized to engage in a**

1 health profession under article 15 of the public health code, 1978
2 PA 368, MCL 333.16101 to 333.18838.

3 (d) "Human embryo" means a human organism at any stage of
4 development from fertilized ovum to embryo.

5 (e) "Patient" means an individual under the care of a health
6 professional.

7 Enacting section 1. This amendatory act takes effect 90 days
8 after the date it is enacted into law.