

# HOUSE BILL NO. 6009

September 26, 2024, Introduced by Reps. Young, Rogers, Price, Hope, Breen, Brabec, Miller, Edwards, McKinney, Neeley, MacDonell, Byrnes, Brenda Carter, O'Neal and Aiyash and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 81, 81a, 136b, 520b, 520c, 520d, 520e, and 520g (MCL 750.81, 750.81a, 750.136b, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g), sections 81 and 81a as amended by 2023 PA 271, section 136b as amended by 2020 PA 49, section 520b as amended by 2014 PA 23, section 520c as amended by 2012 PA 372, and sections 520d and 520e as amended by 2023 PA 126.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**1** Sec. 81. (1) Except as otherwise provided in this section, a

1 person who assaults or assaults and batters an individual, if no  
2 other punishment is prescribed by law, is guilty of a misdemeanor  
3 punishable by imprisonment for not more than 93 days or a fine of  
4 not more than \$500.00, or both. If the victim of a violation under  
5 this subsection is a health professional or medical volunteer and  
6 the violation occurs while the victim is performing the victim's  
7 duties as a health professional or medical volunteer, the person is  
8 guilty of a misdemeanor punishable by imprisonment for not more  
9 than 93 days or a fine of not more than \$1,000.00, or both. The  
10 enhanced fine under this subsection does not apply if the defendant  
11 is a patient who is receiving treatment from the victim.

12 (2) Except as provided in subsection (3), (4), or (5), an  
13 individual who assaults or assaults and batters the individual's  
14 spouse or former spouse, an individual with whom the individual has  
15 or has had a dating relationship, an individual with whom the  
16 individual has had a child in common, or a resident or former  
17 resident of the individual's household, is guilty of a misdemeanor  
18 punishable by imprisonment for not more than 93 days or a fine of  
19 not more than \$500.00, or both.

20 (3) An individual who assaults or assaults and batters an  
21 individual who is pregnant and who knows the individual is pregnant  
22 is guilty of a misdemeanor punishable by imprisonment for not more  
23 than 93 days or a fine of not more than \$500.00, or both.

24 (4) An individual who commits an assault or an assault and  
25 battery in violation of subsection (2) or (3), and who has  
26 previously been convicted of assaulting or assaulting and battering  
27 an individual described in either subsection (2) or subsection (3)  
28 under any of the following, is guilty of a misdemeanor punishable  
29 by imprisonment for not more than 1 year or a fine of not more than

1 \$1,000.00, or both:

2 (a) This section or an ordinance of a political subdivision of  
3 this state substantially corresponding to this section.

4 (b) Section 81a, 82, 83, 84, or 86.

5 (c) A law of another state or an ordinance of a political  
6 subdivision of another state substantially corresponding to this  
7 section or section 81a, 82, 83, 84, or 86.

8 (5) An individual who commits an assault or an assault and  
9 battery in violation of subsection (2) or (3), and who has 2 or  
10 more previous convictions for assaulting or assaulting and  
11 battering an individual described in either subsection (2) or  
12 subsection (3) under any of the following, is guilty of a felony  
13 punishable by imprisonment for not more than 5 years or a fine of  
14 not more than \$5,000.00, or both:

15 (a) This section or an ordinance of a political subdivision of  
16 this state substantially corresponding to this section.

17 (b) Section 81a, 82, 83, 84, or 86.

18 (c) A law of another state or an ordinance of a political  
19 subdivision of another state substantially corresponding to this  
20 section or section 81a, 82, 83, 84, or 86.

21 (6) This section does not apply to an individual using  
22 necessary reasonable physical force in compliance with section 1312  
23 of the revised school code, 1976 PA 451, MCL 380.1312.

24 (7) The operator of a health facility or agency or a hospital  
25 or psychiatric hospital shall post a sign in the health facility or  
26 agency or hospital or psychiatric hospital in a prominent and  
27 visible location that provides that a person, other than a patient  
28 receiving treatment, who assaults a health professional or medical  
29 volunteer in violation of this section is subject to the enhanced

1 fine provided for in this section and that a patient receiving  
2 treatment who assaults a health professional or medical volunteer  
3 may still be subject to prosecution under this section.

4 **(8) In a prosecution for assaulting or assaulting and**  
5 **battering an individual described under subsection (2), expert**  
6 **testimony is not admissible unless the proposed expert witness**  
7 **possesses demonstrated expertise and experience in working with**  
8 **victims of domestic violence.**

9 **(9) ~~(8)~~—As used in this section:**

10 (a) "Dating relationship" means frequent, intimate  
11 associations primarily characterized by the expectation of  
12 affectional involvement. This term does not include a casual  
13 relationship or an ordinary fraternization between 2 individuals in  
14 a business or social context.

15 **(b) "Domestic violence" means that term as defined in section**  
16 **1 of 1978 PA 389, MCL 400.1501.**

17 **(c) ~~(b)~~—"Health facility or agency" means a health facility or**  
18 **agency licensed under article 17 of the public health code, 1978 PA**  
19 **368, MCL 333.20101 to 333.22260.**

20 **(d) ~~(c)~~—"Health professional" means an individual who is**  
21 **employed or granted privileges by or under contract with a hospital**  
22 **or psychiatric hospital, health facility or agency, health system,**  
23 **or health care provider, whether operated by a governmental unit or**  
24 **a private entity, and whose duties within the scope of that**  
25 **employment, privilege, or contract involve the provision of direct**  
26 **patient care and require licensure, registration, certification, or**  
27 **other regulation or authorization under the public health code,**  
28 **1978 PA 368, MCL 333.1101 to 333.25211, or who is providing**  
29 **indirect patient care under the direction of a hospital or**

1 psychiatric hospital, health facility or agency, health system, or  
2 health care provider.

3       **(e)** ~~(d)~~—"Hospital or psychiatric hospital" means a hospital or  
4 psychiatric hospital licensed under the mental health code, 1974 PA  
5 258, MCL 330.1001 to 330.2106.

6       **(f)** ~~(e)~~—"Medical volunteer" means an individual who is  
7 volunteering at a hospital or psychiatric hospital, health facility  
8 or agency, in a health system, or with a health care provider,  
9 whether operated by a governmental unit or a private entity, and  
10 whose duties as a volunteer involve the provision of direct patient  
11 care, or who is providing indirect patient care under the direction  
12 of a hospital or psychiatric hospital, health facility or agency,  
13 health system, or health care provider.

14       Sec. 81a. (1) Except as otherwise provided in this section, a  
15 person who assaults an individual without a weapon and inflicts  
16 serious or aggravated injury ~~upon~~**on** that individual without  
17 intending to commit murder or to inflict great bodily harm less  
18 than murder is guilty of a misdemeanor punishable by imprisonment  
19 for not more than 1 year or a fine of not more than \$1,000.00, or  
20 both. If the victim of a violation under this subsection is a  
21 health professional or medical volunteer and the violation occurs  
22 while the victim is performing the victim's duties as a health  
23 professional or medical volunteer, the person is guilty of a  
24 misdemeanor punishable by imprisonment for not more than 1 year or  
25 a fine of not more than \$2,000.00, or both. The enhanced fine under  
26 this subsection does not apply if the defendant is a patient who is  
27 receiving treatment from the victim.

28       (2) Except as provided in subsection (3), an individual who  
29 assaults the individual's spouse or former spouse, an individual

1 with whom the individual has or has had a dating relationship, an  
2 individual with whom the individual has had a child in common, or a  
3 resident or former resident of the same household without a weapon  
4 and inflicts serious or aggravated injury ~~upon~~**on** that individual  
5 without intending to commit murder or to inflict great bodily harm  
6 less than murder is guilty of a misdemeanor punishable by  
7 imprisonment for not more than 1 year or a fine of not more than  
8 \$1,000.00, or both.

9 (3) An individual who commits an assault and battery in  
10 violation of subsection (2), and who has 1 or more previous  
11 convictions for assaulting or assaulting and battering the  
12 individual's spouse or former spouse, an individual with whom the  
13 individual has or has had a dating relationship, an individual with  
14 whom the individual has had a child in common, or a resident or  
15 former resident of the same household, in violation of any of the  
16 following, is guilty of a felony punishable by imprisonment for not  
17 more than 5 years or a fine of not more than \$5,000.00, or both:

18 (a) This section or an ordinance of a political subdivision of  
19 this state substantially corresponding to this section.

20 (b) Section 81, 82, 83, 84, or 86.

21 (c) A law of another state or an ordinance of a political  
22 subdivision of another state substantially corresponding to this  
23 section or section 81, 82, 83, 84, or 86.

24 (4) The operator of a health facility or agency or a hospital  
25 or psychiatric hospital shall post a sign in the health facility or  
26 agency or hospital or psychiatric hospital in a prominent and  
27 visible location that provides that a person, other than a patient  
28 receiving treatment, who assaults a health professional or medical  
29 volunteer in violation of this section is subject to the enhanced

1 fine provided for in this section and that a patient receiving  
2 treatment who assaults a health professional or medical volunteer  
3 may still be subject to prosecution under this section.

4 **(5) In a prosecution under subsection (2) or (3), expert**  
5 **testimony is not admissible unless the proposed expert witness**  
6 **possesses demonstrated expertise and experience in working with**  
7 **victims of domestic violence.**

8 **(6) ~~(5)~~—As used in this section:**

9 (a) "Dating relationship" means frequent, intimate  
10 associations primarily characterized by the expectation of  
11 affectional involvement. This term does not include a casual  
12 relationship or an ordinary fraternization between 2 individuals in  
13 a business or social context.

14 **(b) "Domestic violence" means that term as defined in section**  
15 **1 of 1978 PA 389, MCL 400.1501.**

16 **(c) ~~(b)~~—"Health facility or agency" means a health facility or**  
17 **agency licensed under article 17 of the public health code, 1978 PA**  
18 **368, MCL 333.20101 to 333.22260.**

19 **(d) ~~(e)~~—"Health professional" means an individual who is**  
20 **employed or granted privileges by or under contract with a hospital**  
21 **or psychiatric hospital, health facility or agency, health system,**  
22 **or health care provider, whether operated by a governmental unit or**  
23 **a private entity, and whose duties within the scope of that**  
24 **employment, privilege, or contract involve the provision of direct**  
25 **patient care and require licensure, registration, certification, or**  
26 **other regulation or authorization under the public health code,**  
27 **1978 PA 368, MCL 333.1101 to 333.25211, or who is providing**  
28 **indirect patient care under the direction of a hospital or**  
29 **psychiatric hospital, health facility or agency, health system, or**

1 health care provider.

2 (e) ~~(d)~~—"Hospital or psychiatric hospital" means a hospital or  
3 psychiatric hospital licensed under the mental health code, 1974 PA  
4 258, MCL 330.1001 to 330.2106.

5 (f) ~~(e)~~—"Medical volunteer" means an individual who is  
6 volunteering at a hospital or psychiatric hospital, health facility  
7 or agency, in a health system, or with a health care provider,  
8 whether operated by a governmental unit or a private entity, and  
9 whose duties as a volunteer involve the provision of direct patient  
10 care, or who is providing indirect patient care under the direction  
11 of a hospital or psychiatric hospital, health facility or agency,  
12 health system, or health care provider.

13 Sec. 136b. (1) As used in this section:

14 (a) "Child" means ~~a person~~ **an individual** who is less than 18  
15 years of age and is not emancipated by operation of law as provided  
16 in section 4 of 1968 PA 293, MCL 722.4.

17 (b) "Cruel" means brutal, inhuman, sadistic, or that which  
18 torments.

19 (c) "Omission" means a willful failure to provide food,  
20 clothing, or shelter necessary for a child's welfare or willful  
21 abandonment of a child.

22 (d) "Person" means a child's parent or guardian or any other  
23 person who cares for, has custody of, or has authority over a child  
24 regardless of the length of time that a child is cared for, in the  
25 custody of, or subject to the authority of that person.

26 (e) "Physical harm" means any injury to a child's physical  
27 condition.

28 (f) "Serious physical harm" means any physical injury to a  
29 child that seriously impairs the child's health or physical well-

1 being, including, but not limited to, brain damage, a skull or bone  
2 fracture, subdural hemorrhage or hematoma, dislocation, sprain,  
3 internal injury, poisoning, burn or scald, or severe cut.

4 (g) "Serious mental harm" means an injury to a child's mental  
5 condition or welfare that is not necessarily permanent but results  
6 in visibly demonstrable manifestations of a substantial disorder of  
7 thought or mood ~~which~~**that** significantly impairs judgment,  
8 behavior, capacity to recognize reality, or ability to cope with  
9 the ordinary demands of life.

10 (2) A person is guilty of child abuse in the first degree if  
11 the person knowingly or intentionally causes serious physical harm  
12 or serious mental harm to a child. Child abuse in the first degree  
13 is a felony punishable by imprisonment for life or any term of  
14 years.

15 (3) A person is guilty of child abuse in the second degree if  
16 any of the following apply:

17 (a) The person's omission causes serious physical harm or  
18 serious mental harm to a child or if the person's reckless act  
19 causes serious physical harm or serious mental harm to a child.

20 (b) The person knowingly or intentionally commits an act  
21 likely to cause serious physical or mental harm to a child  
22 regardless of whether harm results.

23 (c) The person knowingly or intentionally commits an act that  
24 is cruel to a child regardless of whether harm results.

25 (d) The person or a licensee, as licensee is defined in  
26 section 1 of 1973 PA 116, MCL 722.111, violates section 15(2) of  
27 1973 PA 116, MCL 722.125.

28 (4) Child abuse in the second degree is a felony punishable by  
29 imprisonment as follows:

1 (a) For a first offense, not more than 10 years.

2 (b) For an offense following a prior conviction, not more than  
3 20 years.

4 (5) A person is guilty of child abuse in the third degree if  
5 any of the following apply:

6 (a) The person knowingly or intentionally causes physical harm  
7 to a child.

8 (b) The person knowingly or intentionally commits an act that  
9 under the circumstances poses an unreasonable risk of harm or  
10 injury to a child, and the act results in physical harm to a child.

11 (6) Child abuse in the third degree is a felony punishable by  
12 imprisonment as follows:

13 (a) For a first offense, not more than 2 years.

14 (b) For an offense following a prior conviction, not more than  
15 5 years.

16 (7) A person is guilty of child abuse in the fourth degree if  
17 any of the following apply:

18 (a) The person's omission or reckless act causes physical harm  
19 to a child.

20 (b) The person knowingly or intentionally commits an act that  
21 under the circumstances poses an unreasonable risk of harm or  
22 injury to a child, regardless of whether physical harm results.

23 (8) Child abuse in the fourth degree is a crime punishable as  
24 follows:

25 (a) For a first offense, a misdemeanor punishable by  
26 imprisonment for not more than 1 year.

27 (b) For an offense following a prior conviction, a felony  
28 punishable by imprisonment for not more than 2 years.

29 (9) This section does not prohibit a parent or guardian, or

1 other person permitted by law or authorized by the parent or  
2 guardian, from taking steps to reasonably discipline a child,  
3 including the use of reasonable force.

4 (10) It is an affirmative defense to a prosecution under this  
5 section that the defendant's conduct involving the child was a  
6 reasonable response to an act of domestic violence in light of all  
7 the facts and circumstances known to the defendant at that time.  
8 The defendant has the burden of establishing the affirmative  
9 defense by a preponderance of the evidence. As used in this  
10 subsection, "domestic violence" means that term as defined in  
11 section 1 of 1978 PA 389, MCL 400.1501.

12 (11) If the prosecuting attorney intends to seek an enhanced  
13 sentence based ~~upon~~**on** the defendant having 1 or more prior  
14 convictions, the prosecuting attorney shall include on the  
15 complaint and information a statement listing the prior conviction  
16 or convictions. The existence of the defendant's prior conviction  
17 or convictions must be determined by the court, without a jury, at  
18 sentencing or at a separate hearing for that purpose before  
19 sentencing. The existence of a prior conviction may be established  
20 by any evidence relevant for that purpose, including, but not  
21 limited to, 1 or more of the following:

- 22 (a) A copy of the judgment of conviction.  
23 (b) A transcript of a prior trial, plea-taking, or sentencing.  
24 (c) Information contained in a presentence report.  
25 (d) The defendant's statement.

26 **(12) In a prosecution under this section, expert testimony is**  
27 **not admissible unless the proposed expert witness possesses**  
28 **demonstrated expertise and experience in working with victims of**  
29 **child abuse.**

1           **(13)** ~~(12)~~ As used in this section, "prior conviction" means a  
2 violation of this section or a violation of a law of another state  
3 substantially corresponding to this section.

4           Sec. 520b. (1) A person is guilty of criminal sexual conduct  
5 in the first degree if ~~he or she~~ **the person** engages in sexual  
6 penetration with another person and if any of the following  
7 circumstances exists:

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

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

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

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

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

16           (iv) The actor is a teacher, substitute teacher, or  
17 administrator of the public school, nonpublic school, school  
18 district, or intermediate school district in which that other  
19 person is enrolled.

20           (v) The actor is an employee or a contractual service provider  
21 of the public school, nonpublic school, school district, or  
22 intermediate school district in which that other person is  
23 enrolled, or is a volunteer who is not a student in any public  
24 school or nonpublic school, or is an employee of this state or of a  
25 local unit of government of this state or of the United States  
26 assigned to provide any service to that public school, nonpublic  
27 school, school district, or intermediate school district, and the  
28 actor uses ~~his or her~~ **the actor's** employee, contractual, or  
29 volunteer status to gain access to, or to establish a relationship

1 with, that other person.

2 (vi) The actor is an employee, contractual service provider, or  
3 volunteer of a child care organization, or a person licensed to  
4 operate a foster family home or a foster family group home in which  
5 that other person is a resident, and the sexual penetration occurs  
6 during the period of that other person's residency. As used in this  
7 subparagraph, "child care organization", "foster family home", and  
8 "foster family group home" mean those terms as defined in section 1  
9 of 1973 PA 116, MCL 722.111.

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

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

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

16 (ii) The actor uses force or coercion to accomplish the sexual  
17 penetration. Force or coercion includes, but is not limited to, any  
18 of the circumstances listed in subdivision (f).

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

22 (f) The actor causes personal injury to the victim and force  
23 or coercion is used to accomplish sexual penetration. Force or  
24 coercion includes, but is not limited to, any of the following  
25 circumstances:

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

28 (ii) When the actor coerces the victim to submit by threatening  
29 to use force or violence on the victim, and the victim believes

1 that the actor has the present ability to execute these threats.

2 (iii) When the actor coerces the victim to submit by threatening  
3 to retaliate in the future against the victim, or any other person,  
4 and the victim believes that the actor has the ability to execute  
5 this threat. As used in this subdivision, "to retaliate" includes  
6 threats of physical punishment, kidnapping, or extortion.

7 (iv) When the actor engages in the medical treatment or  
8 examination of the victim in a manner or for purposes that are  
9 medically recognized as unethical or unacceptable.

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

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

15 (h) That other person is mentally incapable, mentally  
16 disabled, mentally incapacitated, or physically helpless, and any  
17 of the following:

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

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

22 (2) Criminal sexual conduct in the first degree is a felony  
23 punishable as follows:

24 (a) Except as provided in subdivisions (b) and (c), by  
25 imprisonment for life or for any term of years.

26 (b) For a violation that is committed by an individual 17  
27 years of age or older against an individual less than 13 years of  
28 age by imprisonment for life or any term of years, but not less  
29 than 25 years.

1 (c) For a violation that is committed by an individual 18  
2 years of age or older against an individual less than 13 years of  
3 age, by imprisonment for life without the possibility of parole if  
4 the person was previously convicted of a violation of this section  
5 or section 520c, 520d, 520e, or 520g committed against an  
6 individual less than 13 years of age or a violation of law of the  
7 United States, another state or political subdivision substantially  
8 corresponding to a violation of this section or section 520c, 520d,  
9 520e, or 520g committed against an individual less than 13 years of  
10 age.

11 (d) In addition to any other penalty imposed under subdivision  
12 (a) or (b), the court shall sentence the defendant to lifetime  
13 electronic monitoring under section 520n.

14 (3) The court may order a term of imprisonment imposed under  
15 this section to be served consecutively to any term of imprisonment  
16 imposed for any other criminal offense arising from the same  
17 transaction.

18 **(4) In a prosecution under this section in which the victim is**  
19 **less than 18 years of age, expert testimony is not admissible**  
20 **unless the proposed expert witness possesses demonstrated expertise**  
21 **and experience in working with victims of child sexual abuse.**

22 Sec. 520c. (1) A person is guilty of criminal sexual conduct  
23 in the second degree if the person engages in sexual contact with  
24 another person and if any of the following circumstances exists:

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

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

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

29 (ii) The actor is related by blood or affinity to the fourth

1 degree to the victim.

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

4 (iv) The actor is a teacher, substitute teacher, or  
5 administrator of the public school, nonpublic school, school  
6 district, or intermediate school district in which that other  
7 person is enrolled.

8 (v) 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~~ **the actor's** employee, contractual, or  
17 volunteer status to gain access to, or to establish a relationship  
18 with, that other person.

19 (vi) The actor is an employee, contractual service provider, or  
20 volunteer of a child care organization, or a person licensed to  
21 operate a foster family home or a foster family group home in which  
22 that other person is a resident and the sexual contact occurs  
23 during the period of that other person's residency. As used in this  
24 subdivision, "child care organization", "foster family home", and  
25 "foster family group home" mean those terms as defined in section 1  
26 of 1973 PA 116, MCL 722.111.

27 (c) Sexual contact occurs under circumstances involving the  
28 commission of any other felony.

29 (d) The actor is aided or abetted by 1 or more other persons

1 and either of the following circumstances exists:

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

4 (ii) The actor uses force or coercion to accomplish the sexual  
5 contact. Force or coercion includes, but is not limited to, any of  
6 the circumstances listed in section 520b(1)(f).

7 (e) The actor is armed with a weapon, or any article used or  
8 fashioned in a manner to lead a person to reasonably believe it to  
9 be a weapon.

10 (f) The actor causes personal injury to the victim and force  
11 or coercion is used to accomplish the sexual contact. Force or  
12 coercion includes, but is not limited to, any of the circumstances  
13 listed in section 520b(1)(f).

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

17 (h) That other person is mentally incapable, mentally  
18 disabled, mentally incapacitated, or physically helpless, and any  
19 of the following:

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

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

24 (i) That other person is under the jurisdiction of the  
25 department of corrections and the actor is an employee or a  
26 contractual employee of, or a volunteer with, the department of  
27 corrections who knows that the other person is under the  
28 jurisdiction of the department of corrections.

29 (j) That other person is under the jurisdiction of the

1 department of corrections and the actor is an employee or a  
2 contractual employee of, or a volunteer with, a private vendor that  
3 operates a youth correctional facility under section 20g of the  
4 corrections code of 1953, 1953 PA 232, MCL 791.220g, who knows that  
5 the other person is under the jurisdiction of the department of  
6 corrections.

7 (k) That other person is a prisoner or probationer under the  
8 jurisdiction of a county for purposes of imprisonment or a work  
9 program or other probationary program and the actor is an employee  
10 or a contractual employee of or a volunteer with the county or the  
11 department of corrections who knows that the other person is under  
12 the county's jurisdiction.

13 (l) The actor knows or has reason to know that a court has  
14 detained the victim in a facility while the victim is awaiting a  
15 trial or hearing, or committed the victim to a facility as a result  
16 of the victim having been found responsible for committing an act  
17 that would be a crime if committed by an adult, and the actor is an  
18 employee or contractual employee of, or a volunteer with, the  
19 facility in which the victim is detained or to which the victim was  
20 committed.

21 (2) Criminal sexual conduct in the second degree is a felony  
22 punishable as follows:

23 (a) By imprisonment for not more than 15 years.

24 (b) In addition to the penalty specified in subdivision (a),  
25 the court shall sentence the defendant to lifetime electronic  
26 monitoring under section 520n if the violation involved sexual  
27 contact committed by an individual 17 years of age or older against  
28 an individual less than 13 years of age.

29 **(3) In a prosecution under this section in which the victim is**

1 less than 18 years of age, expert testimony is not admissible  
2 unless the proposed expert witness possesses demonstrated expertise  
3 and experience in working with victims of child sexual abuse.

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

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

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

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

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

25 (e) That other person is at least 16 years of age but less  
26 than 18 years of age and a student at a public school or nonpublic  
27 school, and either of the following applies:

28 (i) The actor is a teacher, substitute teacher, or  
29 administrator of that public school, nonpublic school, school

1 district, or intermediate school district. This subparagraph does  
2 not apply if the other person is emancipated at the time of the  
3 alleged violation.

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

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

18 (i) The actor is a teacher, substitute teacher, administrator,  
19 employee, or contractual service provider of the public school,  
20 nonpublic school, school district, or intermediate school district  
21 from which that other person receives the special education  
22 services. This subparagraph does not apply if both persons are not  
23 less than 18 years of age and were lawfully married to each other  
24 at the time of the alleged violation.

25 (ii) The actor is a volunteer who is not a student in any  
26 public school or nonpublic school, or is an employee of this state  
27 or of a local unit of government of this state or of the United  
28 States assigned to provide any service to that public school,  
29 nonpublic school, school district, or intermediate school district,

1 and the actor uses the actor's employee, contractual, or volunteer  
2 status to gain access to, or to establish a relationship with, that  
3 other person.

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

13 (2) Criminal sexual conduct in the third degree is a felony  
14 punishable by imprisonment for not more than 15 years.

15 **(3) In a prosecution under this section in which the victim is**  
16 **less than 18 years of age, expert testimony is not admissible**  
17 **unless the proposed expert witness possesses demonstrated expertise**  
18 **and experience in working with victims of child sexual abuse.**

19 Sec. 520e. (1) A person is guilty of criminal sexual conduct  
20 in the fourth degree if the person engages in sexual contact with  
21 another person and if any of the following circumstances exist:

22 (a) That other person is at least 13 years of age but less  
23 than 16 years of age, and the actor is 5 or more years older than  
24 that other person.

25 (b) Force or coercion is used to accomplish the sexual  
26 contact. Force or coercion includes, but is not limited to, any of  
27 the following circumstances:

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

1           (ii) When the actor coerces the victim to submit by threatening  
2 to use force or violence on the victim, and the victim believes  
3 that the actor has the present ability to execute that threat.

4           (iii) When the actor coerces the victim to submit by threatening  
5 to retaliate in the future against the victim, or any other person,  
6 and the victim believes that the actor has the ability to execute  
7 that threat. As used in this subparagraph, "to retaliate" includes  
8 threats of physical punishment, kidnapping, or extortion.

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

12           (v) When the actor achieves the sexual contact through  
13 concealment or by the element of surprise.

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

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

26           (e) The actor is a mental health professional and the sexual  
27 contact occurs during or within 2 years after the period in which  
28 the victim is the actor's client or patient and not the actor's  
29 spouse. The consent of the victim is not a defense to a prosecution

1 under this subdivision. A prosecution under this subsection ~~shall~~  
2 **must** not be used as evidence that the victim is mentally  
3 incompetent.

4 (f) That other person is at least 16 years of age but less  
5 than 18 years of age and a student at a public school or nonpublic  
6 school, and either of the following applies:

7 (i) The actor is a teacher, substitute teacher, or  
8 administrator of that public school, nonpublic school, school  
9 district, or intermediate school district. This subparagraph does  
10 not apply if the other person is emancipated at the time of the  
11 alleged violation.

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

23 (g) That other person is at least 16 years old but less than  
24 26 years of age and is receiving special education services, and  
25 either of the following applies:

26 (i) The actor is a teacher, substitute teacher, administrator,  
27 employee, or contractual service provider of the public school,  
28 nonpublic school, school district, or intermediate school district  
29 from which that other person receives the special education

1 services. This subparagraph does not apply if both persons are not  
2 less than 18 years of age and were lawfully married to each other  
3 at the time of the alleged violation.

4 (ii) The actor is a volunteer who is not a student in any  
5 public school or nonpublic school, or is an employee of this state  
6 or of a local unit of government of this state or of the United  
7 States assigned to provide any service to that public school,  
8 nonpublic school, school district, or intermediate school district,  
9 and the actor uses the actor's employee, contractual, or volunteer  
10 status to gain access to, or to establish a relationship with, that  
11 other person.

12 (h) The actor is an employee, contractual service provider, or  
13 volunteer of a child care organization, or a person licensed to  
14 operate a foster family home or a foster family group home, in  
15 which that other person is a resident, that other person is at  
16 least 16 years of age, and the sexual contact occurs during that  
17 other person's residency. As used in this subdivision, "child care  
18 organization", "foster family home", and "foster family group home"  
19 mean those terms as defined in section 1 of 1973 PA 116, MCL  
20 722.111.

21 (2) Criminal sexual conduct in the fourth degree is a  
22 misdemeanor punishable by imprisonment for not more than 2 years or  
23 a fine of not more than \$500.00, or both.

24 **(3) In a prosecution under this section in which the victim is**  
25 **less than 18 years of age, expert testimony is not admissible**  
26 **unless the proposed expert witness possesses demonstrated expertise**  
27 **and experience in working with victims of child sexual abuse.**

28 Sec. 520g. (1) Assault with intent to commit criminal sexual  
29 conduct involving sexual penetration shall be a felony punishable

1 by imprisonment for not more than 10 years.

2 (2) Assault with intent to commit criminal sexual conduct in  
3 the second degree is a felony punishable by imprisonment for not  
4 more than 5 years.

5 (3) **In a prosecution under this section in which the victim is**  
6 **less than 18 years of age, expert testimony is not admissible**  
7 **unless the proposed expert witness possesses demonstrated expertise**  
8 **and experience in working with victims of child sexual abuse.**

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