

Act No. 213
Public Acts of 1994
Approved by the Governor
June 23, 1994
Filed with the Secretary of State
June 23, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Reps Gustafson Hammerstrom Whyman and McManus

ENROLLED HOUSE BILL No. 5389

AN ACT to amend section 520e of Act No 328 of the Public Acts of 1931 entitled as amended An act to revise consolidate codify and add to the statutes relating to crimes to define crimes and prescribe the penalties therefor to provide for restitution under certain circumstances to provide for the competency of evidence at the trial of persons accused of crime to provide immunity from prosecution for certain witnesses appearing at such trials and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act as amended by Act No 86 of the Public Acts of 1988 being section 750 520e of the Michigan Compiled Laws

The People of the State of Michigan enact

Section 1 Section 520e of Act No 328 of the Public Acts of 1931 as amended by Act No 86 of the Public Acts of 1988 being section 750 520e of the Michigan Compiled Laws is amended to read as follows

Sec 520e (1) A person is guilty of criminal sexual conduct in the fourth degree if he or she engages in sexual contact with another person and if any of the following circumstances exist

(a) That other person is at least 13 years of age and under 16 years of age and the actor is 5 or more years older than that other person

(b) Force or coercion is used to accomplish the sexual contact Force or coercion includes but is not limited to any of the following circumstances

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

(ii) When the actor coerces the victim to submit by threatening to use force or violence on the victim and the victim believes that the actor has the present ability to execute these threats

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

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

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

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

(d) That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of or a volunteer with the department of corrections who has knowledge that the other person is under the jurisdiction of the department of corrections

(e) That other person is a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program and the actor is an employee or a contractual employee of or a volunteer with the county who knows that the other person is under the county's jurisdiction

(f) The actor knows or has reason to know that the juvenile division of the probate court the circuit court or the recorder's court of the city of Detroit has detained the victim in a facility while the victim is awaiting a trial or hearing or committed the victim to a facility as a result of the victim having been found responsible for committing an act that would be a crime if committed by an adult and the actor is an employee or contractual employee of or a volunteer with the facility in which the victim is detained or to which the victim was committed

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

Section 2 This amendatory act shall take effect October 1, 1994

This act is ordered to take immediate effect

Co Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor