



# HOUSE BILL No. 4095

February 2, 1993, Introduced by Reps. Dobronski, Profit, Baade, Wallace, DeMars, Stallworth, Joe Young, Jr., Yokich and Kilpatrick and referred to the Committee on Judiciary.

A bill to amend sections 72, 83, 88, 89, 91, 110, 213, 317, 349, 520b, 520c, 520d, 529, and 530 of Act No. 328 of the Public Acts of 1931, entitled as amended

"The Michigan penal code,"

sections 520b, 520c, and 520d as amended by Act No. 158 of the Public Acts of 1983, being sections 750.72, 750.83, 750.88, 750.89, 750.91, 750.110, 750.213, 750.317, 750.349, 750.520b, 750.520c, 750.520d, 750.529, and 750.530 of the Michigan Compiled Laws; and to add section 506b.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 72, 83, 88, 89, 91, 110, 213, 317, 349,  
2 520b, 520c, 520d, 529, and 530 of Act No. 328 of the Public Acts  
3 of 1931, sections 520b, 520c, and 520d as amended by Act No. 158  
4 of the Public Acts of 1983, being sections 750.72, 750.83,

1 750.88, 750.89, 750.91, 750.110, 750.213, 750.317, 750.349,  
2 750.520b, 750.520c, 750.520d, 750.529, and 750.530 of the  
3 Michigan Compiled Laws, are amended and section 506b is added to  
4 read as follows:

5       Sec. 72. ~~Burning dwelling house~~ ~~Any~~ A person who  
6 ~~wilfully~~ WILLFULLY or maliciously burns ~~any~~ AN OCCUPIED OR  
7 UNOCCUPIED dwelling house, ~~either occupied or unoccupied,~~ or  
8 the contents ~~thereof~~ OF A DWELLING HOUSE, whether owned by  
9 ~~himself~~ THE PERSON or another PERSON, or any building within  
10 the curtilage of ~~such~~ THE dwelling house, or the contents  
11 ~~thereof, shall be~~ OF THE BUILDING, IS guilty of a felony ~~—~~  
12 punishable, EXCEPT AS OTHERWISE PROVIDED IN SECTION 506B, by  
13 imprisonment ~~in the state prison~~ FOR not more than 20 years.

14       Sec. 83. ~~Assault with intent to commit murder~~ ~~Any~~ A  
15 person who ~~shall assault~~ ASSAULTS another PERSON with THE  
16 intent to commit the crime of murder ~~—, shall be~~ IS guilty of a  
17 felony ~~—~~ punishable, EXCEPT AS OTHERWISE PROVIDED IN  
18 SECTION 506B, by imprisonment ~~in the state prison~~ for life or  
19 any number of years.

20       Sec. 88. ~~Assault with intent to rob and steal being~~  
21 ~~unarmed~~ ~~Any~~ A person ~~—~~ not ~~being~~ armed with a dangerous  
22 weapon ~~—~~ who ~~shall assault~~ ASSAULTS another PERSON with force  
23 and violence, and with THE intent to rob and steal, ~~shall be~~ IS  
24 guilty of a felony ~~—~~ punishable, EXCEPT AS OTHERWISE PROVIDED  
25 IN SECTION 506B, by imprisonment ~~in the state prison~~ FOR not  
26 more than 15 years.

1       Sec. 89. ~~Assault with intent to rob and steal being~~  
 2 ~~armed Any~~ A person ~~, being~~ armed with a dangerous weapon ~~,~~  
 3 or ~~any~~ AN article used or fashioned in a manner to lead a  
 4 person ~~so~~ WHO IS assaulted reasonably to believe it ~~to be~~ IS  
 5 a dangerous weapon ~~,~~ who ~~shall assault~~ ASSAULTS another  
 6 PERSON with THE intent to rob and steal ~~shall be~~ IS guilty of a  
 7 felony ~~,~~ punishable, EXCEPT AS OTHERWISE PROVIDED IN  
 8 SECTION 506B, by imprisonment ~~in the state prison~~ for life, or  
 9 for any term of years.

10       Sec. 91. ~~Attempt to murder by poisoning, etc. Any~~ A  
 11 person who ~~shall attempt~~ ATTEMPTS to commit the crime of murder  
 12 by poisoning, drowning, or strangling another person, or by any  
 13 means not constituting the crime of assault with intent to  
 14 murder, ~~shall be~~ IS guilty of a felony ~~,~~ punishable, EXCEPT  
 15 AS OTHERWISE PROVIDED IN SECTION 506B, by imprisonment ~~in the~~  
 16 ~~state prison~~ for life or any term of years.

17       Sec. 110. (1) ~~Any~~ A person who ~~shall break~~ BREAKS and  
 18 ~~enter~~ ENTERS with THE intent to commit ~~any~~ A felony ~~,~~ or  
 19 ~~any~~ A larceny ~~therein, any~~ IN A tent, hotel, office, store,  
 20 shop, warehouse, barn, granary, factory, or other building,  
 21 structure, boat or ship, railroad car, or ~~any~~ A private apart-  
 22 ment in any of ~~such~~ THESE buildings, or ~~any~~ AN unoccupied  
 23 dwelling house, ~~shall be~~ IS guilty of a felony punishable,  
 24 EXCEPT AS OTHERWISE PROVIDED IN SECTION 506B, by imprisonment ~~in~~  
 25 ~~the state prison~~ FOR not more than 10 years. ~~Any~~

26       (2) A person who breaks and enters ~~any~~ AN occupied  
 27 dwelling house, with THE intent to commit ~~any~~ A felony or

1 larceny ~~therein, shall be~~ IN THE OCCUPIED DWELLING HOUSE, IS  
 2 guilty of a felony punishable, EXCEPT AS OTHERWISE PROVIDED IN  
 3 SECTION 506B, by imprisonment ~~in the state prison~~ for not more  
 4 than 15 years. ~~For the purpose of~~

5 (3) AS USED IN this section, ~~"any~~ "occupied dwelling  
 6 house" ~~includes one that does not require the physical presence~~  
 7 ~~of an occupant at the time of the breaking and entering but one~~  
 8 ~~which is~~ MEANS A DWELLING THAT IS habitually used as a place of  
 9 abode, AND THE PHYSICAL PRESENCE OF AN OCCUPANT IN THE DWELLING  
 10 AT THE TIME OF THE BREAKING AND ENTERING IS NOT REQUIRED.

11 Sec. 213. ~~Malicious threats to extort money~~ Any A person  
 12 who ~~shall, either~~ orally or by a written or printed communica-  
 13 tion ~~, maliciously threaten~~ THREATENS to accuse another  
 14 PERSON of ~~any~~ A crime or offense, or ~~shall~~ orally or by ~~any~~  
 15 A written or printed communication maliciously ~~threaten any~~  
 16 THREATENS AN injury to the person or property or mother, father,  
 17 husband, wife, or child of another PERSON, with THE intent  
 18 ~~thereby~~ to extort money or any pecuniary advantage, ~~whatever,~~  
 19 or with THE intent to compel the person ~~so~~ threatened to do or  
 20 refrain from doing ~~any~~ AN act against ~~his~~ THE PERSON'S will,  
 21 ~~shall be~~ IS guilty of a felony ~~, punishable, EXCEPT AS OTHER-~~  
 22 WISE PROVIDED IN SECTION 506B, by imprisonment ~~in the state~~  
 23 ~~prison~~ FOR not more than 20 years or by a fine of not more than  
 24 \$10,000.00. ~~dollars.~~

25 Sec. 317. ~~Second degree murder~~ All ~~other kinds of~~  
 26 murder ~~shall be~~ OTHER THAN MURDER OF THE FIRST DEGREE AS  
 27 DEFINED IN SECTION 316 IS murder of the second degree, and shall

1 be punished, EXCEPT AS OTHERWISE PROVIDED IN SECTION 506B, by  
 2 imprisonment ~~in the state prison~~ for life ~~,~~ or any term of  
 3 years. ~~, in the discretion of the court trying the same.~~

4 Sec. 349. (1) ~~Confining person against will, etc.~~ Any A  
 5 person who ~~wilfully~~ WILLFULLY, maliciously, and without lawful  
 6 authority ~~shall~~ forcibly or secretly ~~confine or imprison~~  
 7 CONFINES OR IMPRISONS any other person within this state against  
 8 ~~his~~ THE PERSON'S will, ~~or shall~~ forcibly ~~carry~~ CARRIES or  
 9 ~~send such~~ SENDS THE person out of this state, or ~~shall~~ forc-  
 10 ibly ~~seize or confine, or shall inveigle or kidnap~~ SEIZES, CON-  
 11 FINES, INVEIGLES, OR KIDNAPS any other person with THE intent to  
 12 extort money or ANY other valuable thing ~~thereby~~ or with THE  
 13 intent either to cause ~~such~~ THE person to be secretly confined  
 14 or imprisoned in this state against ~~his~~ THE PERSON'S will, or  
 15 in any way held to service against ~~his~~ THE PERSON'S will,  
 16 ~~shall be~~ IS guilty of a felony ~~,~~ punishable, EXCEPT AS OTHER-  
 17 WISE PROVIDED IN SECTION 506B, by imprisonment ~~in the state~~  
 18 ~~prison~~ for life or for any term of years.

19 (2) ~~Every offense mentioned~~ AN OFFENSE DESCRIBED in this  
 20 section may be tried either in the county in which the ~~same may~~  
 21 ~~have been~~ OFFENSE WAS committed or in any county in or through  
 22 which the person ~~so~~ seized, taken, inveigled, OR kidnaped, or  
 23 whose services ~~shall be~~ WERE sold or transferred, ~~shall have~~  
 24 ~~been~~ WAS taken, confined, held, carried, or brought. ~~,~~ and  
 25 ~~upon the trial of any such~~ IN A TRIAL FOR AN offense UNDER THIS  
 26 SECTION, the consent ~~thereto~~ of the person ~~,~~ ~~so~~ TO BEING  
 27 taken, inveigled, kidnaped, or confined, ~~shall~~ OR HAVING HIS OR

1 HER SERVICES SOLD OR TRANSFERRED, IS not ~~be~~ a defense ~~unless it shall be made satisfactorily to appear to the jury~~  
2 ~~that such~~ THE consent was not obtained by fraud ~~nor~~ OR  
3 extorted by duress or by ~~threats~~ A THREAT.

4  
5 SEC. 506B. (1) A PERSON WHO IS CONVICTED OF A VIOLATION OF  
6 SECTION 72, 83, 88, 89, 91, 110, 213, 317, 349, 520B, 520C, 520D,  
7 529, OR 530 IN WHICH A VICTIM IS AN ELDERLY PERSON, AND WHO HAS 1  
8 OR MORE PRIOR CONVICTIONS FOR VIOLATIONS OF ANY OF THOSE SECTIONS  
9 IN WHICH A VICTIM WAS AN ELDERLY PERSON, SHALL BE PUNISHED AS  
10 FOLLOWS:

11 (A) IF THE PERSON HAS 1 PRIOR CONVICTION, BY IMPRISONMENT  
12 FOR A MINIMUM TERM OF NOT LESS THAN 5 YEARS.

13 (B) IF THE PERSON HAS 2 PRIOR CONVICTIONS, BY IMPRISONMENT  
14 FOR A MINIMUM TERM OF NOT LESS THAN 10 YEARS.

15 (C) IF THE PERSON HAS 3 PRIOR CONVICTIONS, BY IMPRISONMENT  
16 FOR LIFE.

17 (2) A PERSON DESCRIBED IN SUBSECTION (1)(A) OR (B) MAY BE  
18 SENTENCED TO IMPRISONMENT FOR LIFE IF THAT PUNISHMENT IS PERMIT-  
19 TED BY LAW FOR THAT OFFENSE. A PERSON SENTENCED TO A MINIMUM  
20 TERM OF IMPRISONMENT UNDER SUBSECTION (1)(A) OR (B) SHALL BE SEN-  
21 TENCED TO A MAXIMUM TERM AS PROVIDED BY LAW FOR THAT OFFENSE.

22 (3) A MANDATORY TERM OF IMPRISONMENT IMPOSED UNDER  
23 SUBSECTION (1) SHALL NOT BE SUSPENDED. A PERSON SENTENCED TO A  
24 MANDATORY TERM OF IMPRISONMENT UNDER SUBSECTION (1) IS NOT ELIGI-  
25 BLE FOR PROBATION OR PAROLE DURING THAT MANDATORY TERM.

26 (4) A SENTENCE IMPOSED PURSUANT TO THIS SECTION SHALL RUN  
27 CONSECUTIVELY TO ANY OTHER SENTENCE IMPOSED AGAINST THE PERSON

1 THAT ARISES OUT OF THE SAME TRANSACTION OR OCCURRENCE FROM WHICH  
2 THE SENTENCE UNDER THIS SECTION AROSE.

3 (5) AS USED IN THIS SECTION:

4 (A) "ELDERLY PERSON" MEANS A PERSON 60 YEARS OF AGE OR  
5 OLDER.

6 (B) "PRIOR CONVICTION" MEANS A PREVIOUS CONVICTION FOR A  
7 VIOLATION OF SECTION 72, 83, 88, 89, 91, 110, 213, 317, 349,  
8 520B, 520C, 520D, 529, OR 530 IN WHICH THE VICTIM WAS AN ELDERLY  
9 PERSON.

10 (C) "VICTIM" MEANS AN INDIVIDUAL WHO SUFFERS DIRECT OR  
11 THREATENED PHYSICAL, FINANCIAL, OR EMOTIONAL HARM AS A RESULT OF  
12 THE VIOLATION.

13 Sec. 520b. (1) A person is guilty of criminal sexual con-  
14 duct in the first degree if he or she engages in sexual penetra-  
15 tion with another person and ~~if~~ any of the following circum-  
16 stances ~~exists~~ EXIST:

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

18 (b) That other person is at least 13 but less than 16 years  
19 of age and any of the following CIRCUMSTANCES EXIST:

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

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

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

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

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

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

6 (ii) The actor uses force or coercion to accomplish the  
7 sexual penetration. Force or coercion includes but is not  
8 limited to any of the circumstances listed in subdivision (f)(i)  
9 to (v).

10 (e) The actor is armed with a weapon or any article used or  
11 fashioned in a manner to lead the victim ~~to~~ reasonably TO  
12 believe it to be a weapon.

13 (f) The actor causes personal injury to the victim and force  
14 or coercion is used to accomplish sexual penetration. Force or  
15 coercion includes but is not limited to any of the following  
16 circumstances:

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

19 (ii) When the actor coerces the victim to submit by threat-  
20 ening to use force or violence on the victim, and the victim  
21 believes that the actor has the present ability to execute these  
22 threats.

23 (iii) When the actor coerces the victim to submit by threat-  
24 ening to retaliate in the future against the victim, or any other  
25 person, and the victim believes that the actor has the ability to  
26 execute this threat. As used in this subdivision, "to retaliate"



1 includes threats of physical punishment, kidnapping, or  
2 extortion.

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

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

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

11 (h) That other person is mentally incapable, mentally dis-  
12 abled, mentally incapacitated, or physically helpless, and any of  
13 the following CIRCUMSTANCES EXIST:

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

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

18 (2) Criminal sexual conduct in the first degree is a felony  
19 punishable, EXCEPT AS OTHERWISE PROVIDED IN SECTION 506B, by  
20 imprisonment ~~in the state prison~~ for life or for any term of  
21 years.

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

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

1 (b) That other person is at least 13 but less than 16 years  
2 of age and any of the following CIRCUMSTANCES EXIST:

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

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

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

10 (c) Sexual contact occurs under circumstances involving the  
11 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  
16 helpless.

17 (ii) The actor uses force or coercion to accomplish the  
18 sexual contact. Force or coercion includes but is not limited to  
19 any of the circumstances listed in ~~sections~~  
20 SECTION 520b(1)(f)(i) to (v).

21 (e) The actor is armed with a weapon, or any article used or  
22 fashioned in a manner to lead a person ~~to~~ reasonably TO believe  
23 it to be a weapon.

24 (f) The actor causes personal injury to the victim and force  
25 or coercion is used to accomplish the sexual contact. Force or  
26 coercion includes but is not limited to any of the circumstances  
27 listed in section 520b(1)(f)(i) to (v).

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 CIRCUMSTANCES EXIST:

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 sexual conduct in the second degree is a felony  
12 punishable, EXCEPT AS OTHERWISE PROVIDED IN SECTION 506B, by  
13 imprisonment for not more than 15 years.

14 Sec. 520d. (1) A person is guilty of criminal sexual con-  
15 duct in the third degree if the person engages in sexual penetra-  
16 tion with another person and ~~if~~ any of the following circum-  
17 stances ~~exists~~ EXIST:

18 (a) That other person is at least 13 years of age and under  
19 16 years of age.

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

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

1 (2) Criminal sexual conduct in the third degree is a felony  
 2 punishable, EXCEPT AS OTHERWISE PROVIDED IN SECTION 506B, by  
 3 imprisonment for not more than 15 years.

4 Sec. 529. ~~Any~~ A person who ~~shall assault~~ ASSAULTS  
 5 another ~~PERSON~~ and ~~shall feloniously rob, steal and take~~  
 6 ~~from his~~ ROBS, STEALS, AND TAKES FROM THE OTHER person, or in  
 7 ~~his~~ THE OTHER PERSON'S presence, any money or other property ~~which~~  
 8 THAT may be the subject of larceny ~~such robber being~~  
 9 WHILE armed with a dangerous weapon ~~or any article used or~~  
 10 fashioned in a manner to lead the person ~~so~~ assaulted ~~to~~ rea-  
 11 sonably TO believe it to be a dangerous weapon ~~shall be~~ IS  
 12 guilty of a felony ~~punishable, EXCEPT AS OTHERWISE PROVIDED~~  
 13 IN SECTION 506B, by imprisonment ~~in the state prison~~ for life  
 14 or for any term of years. If an aggravated assault or serious  
 15 injury is inflicted by any person while ~~committing an armed rob-~~  
 16 ~~bery as defined in~~ VIOLATING this section, EXCEPT AS OTHERWISE  
 17 PROVIDED IN SECTION 506B, the ~~sentence~~ PERSON shall be  
 18 SENTENCED TO IMPRISONMENT FOR not less than 2 YEARS. ~~years~~  
 19 ~~imprisonment in the state prison.~~

20 Sec. 530. ~~Robbery unarmed Any~~ A person who ~~shall,~~ by  
 21 force and violence ~~or by assault or putting in fear~~ ~~felo-~~  
 22 ~~niously rob, steal and take~~ ROBS, STEALS, AND TAKES from the  
 23 person of another, or in ~~his~~ THE OTHER PERSON'S presence, any  
 24 money or other property ~~which~~ THAT may be the subject of larc-  
 25 ny, ~~such robber~~ WHILE not ~~being~~ armed with a dangerous  
 26 weapon, ~~shall be~~ IS guilty of a felony ~~punishable, EXCEPT~~

1 AS OTHERWISE PROVIDED IN SECTION 506B, by imprisonment ~~in the~~  
2 ~~state prison~~ FOR not more than 15 years.