



# HOUSE BILL No. 4256

February 1, 1995, Introduced by Reps. Dobronski, Palamara, DeHart, Profit, Anthony, Stallworth, Scott, Parks, Yokich, Gire, Goschka, Dolan, Willard, Brewer, DeMars, Pitoniak and Jaye and referred to the Committee on Judiciary and Civil Rights.

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,"

section 110 as amended by Act No. 270 of the Public Acts of 1994 and 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, section 110 as amended by Act No. 270 of the Public Acts  
4 of 1994 and sections 520b, 520c, and 520d as amended by Act

1 No. 158 of the Public Acts of 1983, being sections 750.72,  
 2 750.83, 750.88, 750.89, 750.91, 750.110, 750.213, 750.317,  
 3 750.349, 750.520b, 750.520c, 750.520d, 750.529, and 750.530 of  
 4 the Michigan Compiled Laws, are amended and section 506b is added  
 5 to read as follows:

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

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

21       Sec. 88. ~~Assault with intent to rob and steal being~~  
 22 ~~unarmed~~ ~~Any~~ A person ~~,~~ not ~~being~~ armed with a dangerous  
 23 weapon ~~,~~ who ~~shall assault~~ ASSAULTS another PERSON with force  
 24 and violence, and with THE intent to rob and steal, ~~shall be~~ IS  
 25 guilty of a felony ~~,~~ punishable, EXCEPT AS OTHERWISE PROVIDED  
 26 IN SECTION 506B, by imprisonment ~~in the state prison~~ FOR not  
 27 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. A person who breaks and enters, with intent to  
 18 commit a felony or a larceny therein, a tent, hotel, office,  
 19 store, shop, warehouse, barn, granary, factory or other building,  
 20 structure, boat, ship ~~,~~ or railroad car is guilty of a felony  
 21 ~~,~~ punishable, EXCEPT AS OTHERWISE PROVIDED IN SECTION 506B, by  
 22 imprisonment for not more than 10 years.

23           Sec. 213. ~~Malicious threats to extort money~~ Any A person  
 24 who ~~shall, either~~ orally or by a written or printed communica-  
 25 tion ~~,~~ maliciously ~~threaten~~ THREATENS to accuse another  
 26 PERSON of ~~any~~ A crime or offense, or ~~shall~~ orally or by ~~any~~  
 27 A written or printed communication maliciously ~~threaten any~~

1 THREATENS AN injury to the person or property or mother, father,  
 2 husband, wife, or child of another PERSON, with THE intent  
 3 ~~thereby~~ to extort money or any pecuniary advantage, ~~whatever,~~  
 4 or with THE intent to compel the person ~~so~~ threatened to do or  
 5 refrain from doing ~~any~~ AN act against ~~his~~ THE PERSON'S will,  
 6 ~~shall be~~ IS guilty of a felony ~~,~~ punishable, EXCEPT AS OTHER-  
 7 WISE PROVIDED IN SECTION 506B, by imprisonment ~~in the state~~  
 8 ~~prison~~ FOR not more than 20 years or by a fine of not more than  
 9 \$10,000.00. ~~dollars.~~

10 Sec. 317. ~~Second degree murder~~ All ~~other kinds of~~  
 11 murder ~~shall be~~ OTHER THAN MURDER OF THE FIRST DEGREE AS  
 12 DEFINED IN SECTION 316 IS murder of the second degree, and shall  
 13 be punished, EXCEPT AS OTHERWISE PROVIDED IN SECTION 506B, by  
 14 imprisonment ~~in the state prison~~ for life ~~,~~ or any term of  
 15 years. ~~, in the discretion of the court trying the same.~~

16 Sec. 349. (1) ~~Confining person against will, etc.~~ Any A  
 17 person who ~~wilfully~~ WILLFULLY, maliciously, and without lawful  
 18 authority ~~shall~~ forcibly or secretly ~~confine or imprison~~  
 19 CONFINES OR IMPRISONS any other person within this state against  
 20 ~~his~~ THE PERSON'S will, ~~or shall~~ forcibly ~~carry~~ CARRIES or  
 21 ~~send such~~ SENDS THE person out of this state, or ~~shall~~ forc-  
 22 ibly ~~seize or confine, or shall inveigle or kidnap~~ SEIZES, CON-  
 23 FINES, INVEIGLES, OR KIDNAPS any other person with THE intent to  
 24 extort money or ANY other valuable thing ~~thereby~~ or with THE  
 25 intent either to cause ~~such~~ THE person to be secretly confined  
 26 or imprisoned in this state against ~~his~~ THE PERSON'S will, or  
 27 in any way held to service against ~~his~~ THE PERSON'S will,

1 ~~shall be~~ IS guilty of a felony ~~—~~ punishable, EXCEPT AS  
 2 OTHERWISE PROVIDED IN SECTION 506B, by imprisonment ~~in the state~~  
 3 ~~prison~~ for life or for any term of years.

4 (2) ~~Every offense mentioned~~ AN OFFENSE DESCRIBED in this  
 5 section may be tried either in the county in which the ~~same may~~  
 6 ~~have been~~ OFFENSE WAS committed or in any county in or through  
 7 which the person ~~so~~ seized, taken, inveigled, OR kidnaped, or  
 8 whose services ~~shall be~~ WERE sold or transferred, ~~shall have~~  
 9 ~~been~~ WAS taken, confined, held, carried, or brought. ~~— and~~  
 10 ~~upon the trial of any such~~ IN A TRIAL FOR AN offense UNDER THIS  
 11 SECTION, the consent ~~thereto~~ of the person ~~— so~~ TO BEING  
 12 taken, inveigled, kidnaped, or confined, ~~shall~~ OR HAVING HIS OR  
 13 HER SERVICES SOLD OR TRANSFERRED, IS not ~~be~~ a defense ~~—~~  
 14 unless ~~it shall be made satisfactorily to appear to the jury~~  
 15 ~~that such~~ THE consent was not obtained by fraud ~~nor~~ OR  
 16 extorted by duress or by ~~threats~~ A THREAT.

17 SEC. 506B. (1) A PERSON WHO IS CONVICTED OF A VIOLATION OF  
 18 SECTION 72, 83, 88, 89, 91, 110, 213, 317, 349, 520B, 520C, 520D,  
 19 529, OR 530 IN WHICH A VICTIM IS AN ELDERLY PERSON, AND WHO HAS 1  
 20 OR MORE PRIOR CONVICTIONS FOR VIOLATIONS OF ANY OF THOSE SECTIONS  
 21 IN WHICH A VICTIM WAS AN ELDERLY PERSON, SHALL BE PUNISHED AS  
 22 FOLLOWS:

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

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

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

3 (2) A PERSON DESCRIBED IN SUBSECTION (1)(A) OR (B) MAY BE  
4 SENTENCED TO IMPRISONMENT FOR LIFE IF THAT PUNISHMENT IS PERMIT-  
5 TED BY LAW FOR THAT OFFENSE. A PERSON SENTENCED TO A MINIMUM  
6 TERM OF IMPRISONMENT UNDER SUBSECTION (1)(A) OR (B) SHALL BE SEN-  
7 TENCED TO A MAXIMUM TERM AS PROVIDED BY LAW FOR THAT OFFENSE.

8 (3) A MANDATORY TERM OF IMPRISONMENT IMPOSED UNDER  
9 SUBSECTION (1) SHALL NOT BE SUSPENDED. A PERSON SENTENCED TO A  
10 MANDATORY TERM OF IMPRISONMENT UNDER SUBSECTION (1) IS NOT ELIGI-  
11 BLE FOR PROBATION OR PAROLE DURING THAT MANDATORY TERM.

12 (4) A SENTENCE IMPOSED PURSUANT TO THIS SECTION SHALL RUN  
13 CONSECUTIVELY TO ANY OTHER SENTENCE IMPOSED AGAINST THE PERSON  
14 THAT ARISES OUT OF THE SAME TRANSACTION OR OCCURRENCE FROM WHICH  
15 THE SENTENCE UNDER THIS SECTION AROSE.

16 (5) AS USED IN THIS SECTION:

17 (A) "ELDERLY PERSON" MEANS A PERSON 60 YEARS OF AGE OR  
18 OLDER.

19 (B) "PRIOR CONVICTION" MEANS A PREVIOUS CONVICTION FOR A  
20 VIOLATION OF SECTION 72, 83, 88, 89, 91, 110, 213, 317, 349,  
21 520B, 520C, 520D, 529, OR 530 IN WHICH THE VICTIM WAS AN ELDERLY  
22 PERSON.

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

26 Sec. 520b. (1) A person is guilty of criminal sexual  
27 conduct in the first degree if he or she engages in sexual

1 penetration with another person and ~~if~~ any of the following  
2 circumstances ~~exists~~ EXIST:

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

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

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

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

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

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

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

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

19 (ii) The actor uses force or coercion to accomplish the  
20 sexual penetration. Force or coercion includes but is not  
21 limited to any of the circumstances listed in subdivision (f)(i)  
22 to (v).

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

26 (f) The actor causes personal injury to the victim and force  
27 or coercion is used to accomplish sexual penetration. Force or

1 coercion includes but is not limited to any of the following  
2 circumstances:

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

5 (ii) When the actor coerces the victim to submit by threat-  
6 ening to use force or violence on the victim, and the victim  
7 believes that the actor has the present ability to execute these  
8 threats.

9 (iii) When the actor coerces the victim to submit by threat-  
10 ening to retaliate in the future against the victim, or any other  
11 person, and the victim believes that the actor has the ability to  
12 execute this threat. As used in this subdivision, "to retaliate"  
13 includes threats of physical punishment, kidnapping, or  
14 extortion.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 dis-  
16 abled, mentally incapacitated, or physically helpless, and any of  
17 the following CIRCUMSTANCES EXIST:

18       (i) The actor is related to the victim by blood or affinity  
19 to 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 second degree is a felony  
23 punishable, EXCEPT AS OTHERWISE PROVIDED IN SECTION 506B, by  
24 imprisonment for not more than 15 years.

25       Sec. 520d. (1) A person is guilty of criminal sexual con-  
26 duct in the third degree if the person engages in sexual

1 penetration with another person and ~~if~~ any of the following  
2 circumstances ~~exists~~ EXIST:

3 (a) That other person is at least 13 years of age and under  
4 16 years of age.

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

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

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

14 Sec. 529. ~~Any~~ A person who ~~shall assault~~ ASSAULTS  
15 another ~~,~~ PERSON and ~~shall~~ feloniously ~~rob, steal and take~~  
16 ~~from his~~ ROBBS, STEALS, AND TAKES FROM THE OTHER person, or in  
17 ~~his~~ THE OTHER PERSON'S presence, any money or other property ~~→~~  
18 ~~which~~ THAT may be the subject of larceny ~~,~~ ~~such robber being~~  
19 WHILE armed with a dangerous weapon ~~→~~ or any article used or  
20 fashioned in a manner to lead the person ~~so~~ assaulted ~~to~~ rea-  
21 sonably TO believe it to be a dangerous weapon ~~,~~ ~~shall be~~ IS  
22 guilty of a felony ~~→~~ punishable, EXCEPT AS OTHERWISE PROVIDED  
23 IN SECTION 506B, by imprisonment ~~in the state prison~~ for life  
24 or for any term of years. If an aggravated assault or serious  
25 injury is inflicted by any person while ~~committing an armed rob-~~  
26 ~~bery as defined in~~ VIOLATING this section, EXCEPT AS OTHERWISE  
27 PROVIDED IN SECTION 506B, the ~~sentence~~ PERSON shall be

1 SENTENCED TO IMPRISONMENT FOR not less than 2 YEARS. ~~years~~  
2 ~~imprisonment in the state prison.~~

3       Sec. 530. ~~Robbery unarmed~~ Any A person who ~~shall,~~ by  
4 force and violence ~~,~~ or by assault or putting in fear ~~,~~ felo-  
5 niously ~~rob, steal and take~~ ROBS, STEALS, AND TAKES from the  
6 person of another, or in ~~his~~ THE OTHER PERSON'S presence, any  
7 money or other property ~~which~~ THAT may be the subject of larcen-  
8 ny, ~~such robber~~ WHILE not ~~being~~ armed with a dangerous  
9 weapon, ~~shall be~~ IS guilty of a felony ~~,~~ punishable, EXCEPT  
10 AS OTHERWISE PROVIDED IN SECTION 506B, by imprisonment ~~in the~~  
11 ~~state prison~~ FOR not more than 15 years.