

**SENATE BILL NO. 1071**

April 22, 1998, Introduced by Senators BOUCHARD and BENNETT and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 520a (MCL 750.520a), as amended by 1983 PA 158.

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

1       Sec. 520a. As used in sections 520a to 520l:

2       (a) "Actor" means a person accused of criminal sexual  
3 conduct.

4       (b) "Developmental disability" means an impairment of gen-  
5 eral intellectual functioning or adaptive behavior which meets  
6 the following criteria:

7       (i) It originated before the person became 18 years of age.

8       (ii) It has continued since its origination or can be  
9 expected to continue indefinitely.

1 (iii) It constitutes a substantial burden to the impaired  
2 person's ability to perform in society.

3 (iv) It is attributable to 1 or more of the following:

4 (A) Mental retardation, cerebral palsy, epilepsy, or  
5 autism.

6 (B) Any other condition of a person found to be closely  
7 related to mental retardation because it produces a similar  
8 impairment or requires treatment and services similar to those  
9 required for a person who is mentally retarded.

10 (c) "Intimate parts" includes the primary genital area,  
11 groin, inner thigh, buttock, or breast of a human being.

12 (d) "Mental illness" means a substantial disorder of thought  
13 or mood which significantly impairs judgment, behavior, capacity  
14 to recognize reality, or ability to cope with the ordinary  
15 demands of life.

16 (e) "Mentally disabled" means that a person has a mental  
17 illness, is mentally retarded, or has a developmental  
18 disability.

19 (f) "Mentally incapable" means that a person suffers from a  
20 mental disease or defect which renders that person temporarily or  
21 permanently incapable of appraising the nature of his or her  
22 conduct.

23 (g) "Mentally incapacitated" means that a person is rendered  
24 temporarily incapable of appraising or controlling his or her  
25 conduct due to the influence of a narcotic, anesthetic, or other  
26 substance administered to that person without his or her consent,

1 or due to any other act committed upon that person without his or  
2 her consent.

3 (h) "Mentally retarded" means significantly subaverage gen-  
4 eral intellectual functioning which originates during the devel-  
5 opmental period and is associated with impairment in adaptive  
6 behavior.

7 (i) "Physically helpless" means that a person is uncon-  
8 scious, asleep, or for any other reason is physically unable to  
9 communicate unwillingness to an act.

10 (j) "Personal injury" means bodily injury, disfigurement,  
11 mental anguish, chronic pain, pregnancy, disease, or loss or  
12 impairment of a sexual or reproductive organ.

13 (k) "Sexual contact" includes the intentional touching of  
14 the victim's or actor's intimate parts or the intentional touch-  
15 ing of the clothing covering the immediate area of the victim's  
16 or actor's intimate parts, if that intentional touching can rea-  
17 sonably be construed as being for ~~the~~ A SEXUAL purpose. ~~of~~  
18 ~~sexual arousal or gratification.~~

19 (l) "Sexual penetration" means sexual intercourse, cunnilin-  
20 gus, fellatio, anal intercourse, or any other intrusion, however  
21 slight, of any part of a person's body or of any object into the  
22 genital or anal openings of another person's body, but emission  
23 of semen is not required.

24 (m) "Victim" means the person alleging to have been sub-  
25 jected to criminal sexual conduct.