

HOUSE BILL No. 5256

February 1, 2000, Introduced by Reps. Hager, Julian, Jellema, Tabor, Raczkowski, Gosselin, Gilbert, Ehardt, Kowall, Richardville, Shulman, DeRossett, Shackleton, Faunce, Law, Garcia, Bisbee, Bovin, Pappageorge, Kuipers, Caul, Woronchak, Van Woerkom, Birkholz, Cassis, Lemmons and Sanborn and referred to the Committee on Family and Civil Law.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 81 (MCL 750.81), as amended by 1994 PA 64.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81. (1) A person who assaults or assaults and batters
2 an individual, if no other punishment is prescribed by law, is
3 guilty of a misdemeanor punishable by imprisonment for not more
4 than 90 days or a fine of not more than \$500.00, or both.

5 (2) Except as provided in subsection (3) or (4), an individ-
6 ual who assaults or assaults and batters his or her spouse or
7 former spouse, an individual with whom he or she has had a child
8 in common, or a resident or former resident of his or her house-
9 hold, is guilty of a misdemeanor punishable by imprisonment for
10 not more than 93 days or a fine of not more than \$500.00, or
11 both.

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1 (3) An individual who assaults or assaults and batters his
2 or her spouse or former spouse, an individual with whom he or she
3 has had a child in common, or a resident or former resident of
4 his or her household, in violation of subsection (2), and who has
5 previously been convicted of assaulting or assaulting and batter-
6 ing his or her spouse or former spouse, an individual with whom
7 he or she has had a child in common, or a resident or former res-
8 ident of his or her household, in violation of this section or a
9 local ordinance substantially corresponding to this section, or
10 in violation of section 81a, 82, 83, 84, or 86, may be punished
11 by imprisonment for not more than 1 year or a fine of not more
12 than \$1,000.00, or both.

13 (4) An individual who assaults or assaults and batters his
14 or her spouse or former spouse, an individual with whom he or she
15 has had a child in common, or a resident or former resident of
16 his or her household, in violation of subsection (2), and who has
17 2 or more previous convictions for assaulting or assaulting and
18 battering his or her spouse or former spouse, an individual with
19 whom he or she has had a child in common, or a resident or former
20 resident of his or her household, in violation of this section or
21 a local ordinance substantially corresponding to this section, or
22 in violation of section 81a, 82, 83, 84, or 86, is guilty of a
23 felony punishable by imprisonment for not more than 2 years or a
24 fine of not more than \$2,500.00, or both.

25 (5) THIS SECTION DOES NOT APPLY TO AN INDIVIDUAL USING
[NECESSARY] REA-
26 SONABLE PHYSICAL FORCE IN COMPLIANCE WITH SECTION 1312 OF THE
27 REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1312.