

# SENATE BILL No. 233

February 27, 2003, Introduced by Senators HAMMERSTROM and JOHNSON and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
(MCL 760.1 to 777.69) by adding sections 27a and 27b to  
chapter VIII.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### CHAPTER VIII

Sec 27a. (1) Evidence of a statement by a declarant is not  
made inadmissible by the hearsay rule if all of the following  
apply:

(a) The statement purports to narrate, describe, or explain  
the infliction or threat of physical injury upon the declarant.

(b) The action in which the evidence is offered under this  
section is an offense involving domestic violence.

(c) The statement was made at or near the time of the  
infliction or threat of physical injury. Evidence of a statement

1 made more than 5 years before the filing of the current action or  
2 proceeding is inadmissible under this section.

3 (d) The statement was made under circumstances that would  
4 indicate the statement's trustworthiness.

5 (e) The statement was made in writing, was electronically  
6 recorded, or was made to a law enforcement official.

7 (2) For the purpose of subsection (1)(d), circumstances  
8 relevant to the issue of trustworthiness include, but are not  
9 limited to, all of the following:

10 (a) Whether the statement was made in contemplation of  
11 pending or anticipated litigation in which the declarant was  
12 interested.

13 (b) Whether the declarant has a bias or motive for  
14 fabricating the statement, and the extent of any bias or motive.

15 (c) Whether the statement is corroborated by evidence other  
16 than statements that are admissible only under this section.

17 (3) A statement is admissible under this section only if the  
18 proponent of the statement makes known to the adverse party the  
19 intention to offer the statement and the particulars of the  
20 statement sufficiently in advance of the proceedings in order to  
21 provide the adverse party with a fair opportunity to prepare to  
22 meet the statement.

23 (4) As used in this section:

24 (a) "Declarant" means a person who makes a statement.

25 (b) "Family or household member" means 1 of the following:

26 (i) A spouse or former spouse.

27 (ii) An individual with whom the person resides or has

1 resided.

2 (iii) An individual with whom the person has a child in  
3 common.

4 (c) "Offense involving domestic violence" means an occurrence  
5 of 1 or more of the following acts by a person that is not an act  
6 of self-defense:

7 (i) Causing or attempting to cause physical or mental harm to  
8 a family or household member.

9 (ii) Placing a family or household member in fear of physical  
10 or mental harm.

11 (iii) Causing or attempting to cause a family or household  
12 member to engage in involuntary sexual activity by force, threat  
13 of force, or duress.

14 (iv) Engaging in activity toward a family or household member  
15 that would cause a reasonable person to feel terrorized,  
16 frightened, intimidated, threatened, harassed, or molested.

17 Sec. 27b. (1) Except as provided in subsection (4), in a  
18 criminal action in which the defendant is accused of an offense  
19 involving domestic violence, evidence of the defendant's  
20 commission of other domestic violence is not made inadmissible by  
21 Michigan rule of evidence 404 regarding character evidence or  
22 evidence of other crimes, wrongs, or acts, if the evidence is not  
23 excluded under the Michigan rule of evidence 403 regarding the  
24 probative value of the evidence.

25 (2) In an action in which evidence is offered under this  
26 section, the prosecution shall disclose the evidence to the  
27 defendant, including a witness statement or a summary of the

1 substance of testimony that is expected to be offered.

2 (3) This section does not limit or preclude the admitting or  
3 considering of evidence under any other statute, rule of  
4 evidence, or case law.

5 (4) Evidence of an act occurring more than 10 years before  
6 the charged offense is inadmissible under this section, unless  
7 the court determines that admitting this evidence is in the  
8 interest of justice.

9 (5) As used in this section:

10 (a) "Family or household member" means 1 of the following:

11 (i) A spouse or former spouse.

12 (ii) An individual with whom the person resides or has  
13 resided.

14 (iii) An individual with whom the person has a child in  
15 common.

16 (b) "Offense involving domestic violence" means an occurrence  
17 of 1 or more of the following acts by a person that is not an act  
18 of self-defense:

19 (i) Causing or attempting to cause physical or mental harm to  
20 a family or household member.

21 (ii) Placing a family or household member in fear of physical  
22 or mental harm.

23 (iii) Causing or attempting to cause a family or household  
24 member to engage in involuntary sexual activity by force, threat  
25 of force, or duress.

26 (iv) Engaging in activity toward a family or household member  
27 that would cause a reasonable person to feel terrorized,

1 frightened, intimidated, threatened, harassed, or molested.