

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 263

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER VIII

SEC. 27C. (1) EVIDENCE OF A STATEMENT BY A DECLARANT IS
ADMISSIBLE 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 TO A LAW ENFORCEMENT OFFICER.

6 (2) FOR THE PURPOSE OF SUBSECTION (1) (D), CIRCUMSTANCES
7 RELEVANT TO THE ISSUE OF TRUSTWORTHINESS INCLUDE, BUT ARE NOT
8 LIMITED TO, ALL OF THE FOLLOWING:

9 (A) WHETHER THE STATEMENT WAS MADE IN CONTEMPLATION OF PENDING
10 OR ANTICIPATED LITIGATION IN WHICH THE DECLARANT WAS INTERESTED.

11 (B) WHETHER THE DECLARANT HAS A BIAS OR MOTIVE FOR FABRICATING
12 THE STATEMENT, AND THE EXTENT OF ANY BIAS OR MOTIVE.

13 (C) WHETHER THE STATEMENT IS CORROBORATED BY EVIDENCE OTHER
14 THAN STATEMENTS THAT ARE ADMISSIBLE ONLY UNDER THIS SECTION.

15 (3) IF THE PROSECUTING ATTORNEY INTENDS TO OFFER EVIDENCE
16 UNDER THIS SECTION, THE PROSECUTING ATTORNEY SHALL DISCLOSE THE
17 EVIDENCE, INCLUDING THE STATEMENTS OF WITNESSES OR A SUMMARY OF THE
18 SUBSTANCE OF ANY TESTIMONY THAT IS EXPECTED TO BE OFFERED, TO THE
19 DEFENDANT NOT LESS THAN 15 DAYS BEFORE THE SCHEDULED DATE OF TRIAL
20 OR AT A LATER TIME AS ALLOWED BY THE COURT FOR GOOD CAUSE SHOWN.

21 (4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ABROGATE ANY
22 PRIVILEGE CONFERRED BY LAW.

23 (5) AS USED IN THIS SECTION:

24 (A) "DECLARANT" MEANS A PERSON WHO MAKES A STATEMENT.

25 (B) "DOMESTIC VIOLENCE" OR "OFFENSE INVOLVING DOMESTIC
26 VIOLENCE" MEANS AN OCCURRENCE OF 1 OR MORE OF THE FOLLOWING ACTS BY
27 A PERSON THAT IS NOT AN ACT OF SELF-DEFENSE:

Senate Bill No. 263 (H-1) as amended March 2, 2006

(i) CAUSING OR ATTEMPTING TO CAUSE PHYSICAL OR MENTAL HARM TO A FAMILY OR HOUSEHOLD MEMBER.

(ii) PLACING A FAMILY OR HOUSEHOLD MEMBER IN FEAR OF PHYSICAL OR MENTAL HARM.

(iii) CAUSING OR ATTEMPTING TO CAUSE A FAMILY OR HOUSEHOLD MEMBER TO ENGAGE IN INVOLUNTARY SEXUAL ACTIVITY BY FORCE, THREAT OF FORCE, OR DURESS.

(iv) ENGAGING IN ACTIVITY TOWARD A FAMILY OR HOUSEHOLD MEMBER THAT WOULD CAUSE A REASONABLE PERSON TO FEEL TERRORIZED, FRIGHTENED, INTIMIDATED, THREATENED, HARASSED, OR MOLESTED.

(C) "FAMILY OR HOUSEHOLD MEMBER" MEANS ANY OF THE FOLLOWING:

(i) A SPOUSE OR FORMER SPOUSE.

(ii) AN INDIVIDUAL WITH WHOM THE PERSON RESIDES OR HAS RESIDED.

(iii) AN INDIVIDUAL WITH WHOM THE PERSON HAS OR HAS HAD A CHILD IN COMMON.

(iv) AN INDIVIDUAL WITH WHOM THE PERSON HAS OR HAS HAD A DATING RELATIONSHIP. AS USED IN THIS SUBPARAGRAPH, "DATING RELATIONSHIP" MEANS FREQUENT, INTIMATE ASSOCIATIONS PRIMARILY CHARACTERIZED BY THE EXPECTATION OF AFFECTIONAL INVOLVEMENT. THIS TERM DOES NOT INCLUDE A CASUAL RELATIONSHIP OR AN ORDINARY FRATERNIZATION BETWEEN 2 INDIVIDUALS IN A BUSINESS OR SOCIAL CONTEXT.

[(6) THIS SECTION APPLIES TO TRIALS AND EVIDENTIARY HEARINGS COMMENCED OR IN PROGRESS ON OR AFTER MAY 1, 2006.]