

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5268

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 85.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 85. (1) A PERSON WHO, WITH THE INTENT TO CAUSE CRUEL OR
2 EXTREME PHYSICAL OR MENTAL PAIN AND SUFFERING, INFLECTS GREAT
3 BODILY INJURY OR SEVERE MENTAL PAIN OR SUFFERING UPON ANOTHER
4 PERSON WITHIN HIS OR HER CUSTODY OR PHYSICAL CONTROL COMMITS
5 TORTURE AND IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR
6 LIFE OR ANY TERM OF YEARS.

7 (2) AS USED IN THIS SECTION:

8 (A) "CRUEL" MEANS BRUTAL, INHUMAN, SADISTIC, OR THAT WHICH
9 TORMENTS.

1 (B) "CUSTODY OR PHYSICAL CONTROL" MEANS THE FORCIBLE
2 RESTRICTION OF A PERSON'S MOVEMENTS OR FORCIBLE CONFINEMENT OF THE
3 PERSON SO AS TO INTERFERE WITH THAT PERSON'S LIBERTY, WITHOUT THAT
4 PERSON'S CONSENT OR WITHOUT LAWFUL AUTHORITY.

5 (C) "GREAT BODILY INJURY" MEANS EITHER OF THE FOLLOWING:

6 (i) SERIOUS IMPAIRMENT OF A BODY FUNCTION AS THAT TERM IS
7 DEFINED IN SECTION 58C OF THE MICHIGAN VEHICLE CODE, 1949 PA 300,
8 MCL 257.58C.

9 (ii) ONE OR MORE OF THE FOLLOWING CONDITIONS: INTERNAL INJURY,
10 POISONING, SERIOUS BURNS OR SCALDING, SEVERE CUTS, OR MULTIPLE
11 PUNCTURE WOUNDS.

12 (D) "SEVERE MENTAL PAIN OR SUFFERING" MEANS A MENTAL INJURY
13 THAT RESULTS IN A SUBSTANTIAL ALTERATION OF MENTAL FUNCTIONING THAT
14 IS MANIFESTED IN A VISIBLY DEMONSTRABLE MANNER CAUSED BY OR
15 RESULTING FROM ANY OF THE FOLLOWING:

16 (i) THE INTENTIONAL INFLICTION OR THREATENED INFLICTION OF
17 GREAT BODILY INJURY.

18 (ii) THE ADMINISTRATION OR APPLICATION, OR THREATENED
19 ADMINISTRATION OR APPLICATION, OF MIND-ALTERING SUBSTANCES OR OTHER
20 PROCEDURES CALCULATED TO DISRUPT THE SENSES OR THE PERSONALITY.

21 (iii) THE THREAT OF IMMINENT DEATH.

22 (iv) THE THREAT THAT ANOTHER PERSON WILL IMMEDIATELY BE
23 SUBJECTED TO DEATH, GREAT BODILY INJURY, OR THE ADMINISTRATION OR
24 APPLICATION OF MIND-ALTERING SUBSTANCES OR OTHER PROCEDURES
25 CALCULATED TO DISRUPT THE SENSES OR PERSONALITY.

26 (3) PROOF THAT A VICTIM SUFFERED PAIN IS NOT AN ELEMENT OF THE
27 CRIME UNDER THIS SECTION.

1 (4) A CONVICTION OR SENTENCE UNDER THIS SECTION DOES NOT
2 PRECLUDE A CONVICTION OR SENTENCE FOR A VIOLATION OF ANY OTHER LAW
3 OF THIS STATE ARISING FROM THE SAME TRANSACTION.

4 Enacting section 1. This amendatory act takes effect March 1,
5 2006.