

**SUBSTITUTE FOR
SENATE BILL NO. 709**

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 520b (MCL 750.520b), as amended by 2002 PA 714.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 520b. (1) A person is guilty of criminal sexual conduct
2 in the first degree if he or she engages in sexual penetration with
3 another person and if any of the following circumstances exists:

4 (a) That other person is under 13 years of age.

5 (b) That other person is at least 13 but less than 16 years of
6 age and any of the following:

7 (i) The actor is a member of the same household as the victim.

8 (ii) The actor is related to the victim by blood or affinity to
9 the fourth degree.

1 (iii) The actor is in a position of authority over the victim
2 and used this authority to coerce the victim to submit.

3 (iv) The actor is a teacher, substitute teacher, or
4 administrator of the public or nonpublic school in which that other
5 person is enrolled.

6 (c) Sexual penetration occurs under circumstances involving
7 the commission of any other felony.

8 (d) The actor is aided or abetted by 1 or more other persons
9 and either of the following circumstances exists:

10 (i) The actor knows or has reason to know that the victim is
11 mentally incapable, mentally incapacitated, or physically helpless.

12 (ii) The actor uses force or coercion to accomplish the sexual
13 penetration. Force or coercion includes but is not limited to any
14 of the circumstances listed in subdivision (f) (i) to (v).

15 (e) The actor is armed with a weapon or any article used or
16 fashioned in a manner to lead the victim to reasonably believe it
17 to be a weapon.

18 (f) The actor causes personal injury to the victim and force
19 or coercion is used to accomplish sexual penetration. Force or
20 coercion includes but is not limited to any of the following
21 circumstances:

22 (i) When the actor overcomes the victim through the actual
23 application of physical force or physical violence.

24 (ii) When the actor coerces the victim to submit by threatening
25 to use force or violence on the victim, and the victim believes
26 that the actor has the present ability to execute these threats.

27 (iii) When the actor coerces the victim to submit by threatening

1 to retaliate in the future against the victim, or any other person,
2 and the victim believes that the actor has the ability to execute
3 this threat. As used in this subdivision, "to retaliate" includes
4 threats of physical punishment, kidnapping, or extortion.

5 (iv) When the actor engages in the medical treatment or
6 examination of the victim in a manner or for purposes ~~which~~ **THAT**
7 are medically recognized as unethical or unacceptable.

8 (v) When the actor, through concealment or by the element of
9 surprise, is able to overcome the victim.

10 (g) The actor causes personal injury to the victim, and the
11 actor knows or has reason to know that the victim is mentally
12 incapable, mentally incapacitated, or physically helpless.

13 (h) That other person is mentally incapable, mentally
14 disabled, mentally incapacitated, or physically helpless, and any
15 of the following:

16 (i) The actor is related to the victim by blood or affinity to
17 the fourth degree.

18 (ii) The actor is in a position of authority over the victim
19 and used this authority to coerce the victim to submit.

20 (2) Criminal sexual conduct in the first degree is a felony
21 punishable **AS FOLLOWS:**

22 (A) **EXCEPT AS PROVIDED IN SUBDIVISION (B),** by imprisonment ~~in~~
23 ~~the state prison~~ for life or for any term of years.

24 (B) **THE PERSON SHALL BE SENTENCED TO IMPRISONMENT FOR LIFE**
25 **WITHOUT PAROLE ELIGIBILITY IF ALL OF THE FOLLOWING APPLY:**

26 (i) **THE PERSON IS CONVICTED OF VIOLATING SUBSECTION (1) (A) .**

27 (ii) **THE PERSON IS 17 YEARS OF AGE OR OLDER.**

1 (iii) THE PERSON WAS PREVIOUSLY CONVICTED OF A VIOLATION OF THIS
2 SECTION OR SECTION 520C, 520D, 520E, OR 520G, OR A LAW OF THE
3 UNITED STATES, ANOTHER STATE, OR A POLITICAL SUBDIVISION OF ANOTHER
4 STATE SUBSTANTIALLY CONFORMING TO THIS SECTION OR SECTION 520C,
5 520D, 520E, OR 520G COMMITTED WHEN THE PERSON WAS 17 YEARS OF AGE
6 OR OLDER AND THE VICTIM WAS LESS THAN 13 YEARS OF AGE.

7 Enacting section 1. This amendatory act does not take effect
8 unless Senate Bill No. 718 of the 93rd Legislature is enacted into
9 law.