

# HOUSE BILL No. 6307

July 12, 2006, Introduced by Rep. Emmons and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending sections 520b, 520c, and 520d (MCL 750.520b, 750.520c,  
and 750.520d), 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, **COACH**, 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 by imprisonment in the state prison for life or for any  
22 term of years.

23 Sec. 520c. (1) A person is guilty of criminal sexual conduct  
24 in the second degree if the person engages in sexual contact with  
25 another person and if any of the following circumstances exists:

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

27 (b) That other person is at least 13 but less than 16 years of

1 age and any of the following:

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

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

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

7 (iv) The actor is a teacher, substitute teacher, **COACH**, or  
8 administrator of the public or nonpublic school in which that other  
9 person is enrolled.

10 (c) Sexual contact occurs under circumstances involving the  
11 commission of any other felony.

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

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

16 (ii) The actor uses force or coercion to accomplish the sexual  
17 contact. Force or coercion includes, but is not limited to, any of  
18 the circumstances listed in sections 520b(1)(f)(i) to (v).

19 (e) The actor is armed with a weapon, or any article used or  
20 fashioned in a manner to lead a person to reasonably believe it to  
21 be a weapon.

22 (f) The actor causes personal injury to the victim and force  
23 or coercion is used to accomplish the sexual contact. Force or  
24 coercion includes, but is not limited to, any of the circumstances  
25 listed in section 520b(1)(f)(i) to (v).

26 (g) The actor causes personal injury to the victim and the  
27 actor knows or has reason to know that the victim is mentally

1 incapable, mentally incapacitated, or physically helpless.

2 (h) That other person is mentally incapable, mentally  
3 disabled, mentally incapacitated, or physically helpless, and any  
4 of the following:

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

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

9 (i) That other person is under the jurisdiction of the  
10 department of corrections and the actor is an employee or a  
11 contractual employee of, or a volunteer with, the department of  
12 corrections who knows that the other person is under the  
13 jurisdiction of the department of corrections.

14 (j) That other person is under the jurisdiction of the  
15 department of corrections and the actor is an employee or a  
16 contractual employee of, or a volunteer with, a private vendor that  
17 operates a youth correctional facility under section 20g of 1953 PA  
18 232, MCL 791.220g, who knows that the other person is under the  
19 jurisdiction of the department of corrections.

20 (k) That other person is a prisoner or probationer under the  
21 jurisdiction of a county for purposes of imprisonment or a work  
22 program or other probationary program and the actor is an employee  
23 or a contractual employee of or a volunteer with the county or the  
24 department of corrections who knows that the other person is under  
25 the county's jurisdiction.

26 (l) The actor knows or has reason to know that a court has  
27 detained the victim in a facility while the victim is awaiting a

1 trial or hearing, or committed the victim to a facility as a result  
2 of the victim having been found responsible for committing an act  
3 that would be a crime if committed by an adult, and the actor is an  
4 employee or contractual employee of, or a volunteer with, the  
5 facility in which the victim is detained or to which the victim was  
6 committed.

7 (2) Criminal sexual conduct in the second degree is a felony  
8 punishable by imprisonment for not more than 15 years.

9 Sec. 520d. (1) A person is guilty of criminal sexual conduct  
10 in the third degree if the person engages in sexual penetration  
11 with another person and if any of the following circumstances  
12 exist:

13 (a) That other person is at least 13 years of age and under 16  
14 years of age.

15 (b) Force or coercion is used to accomplish the sexual  
16 penetration. Force or coercion includes but is not limited to any  
17 of the circumstances listed in section 520b(1)(f)(i) to (v).

18 (c) The actor knows or has reason to know that the victim is  
19 mentally incapable, mentally incapacitated, or physically helpless.

20 (d) That other person is related to the actor by blood or  
21 affinity to the third degree and the sexual penetration occurs  
22 under circumstances not otherwise prohibited by this chapter. It is  
23 an affirmative defense to a prosecution under this subdivision that  
24 the other person was in a position of authority over the defendant  
25 and used this authority to coerce the defendant to violate this  
26 subdivision. The defendant has the burden of proving this defense  
27 by a preponderance of the evidence. This subdivision does not apply

1 if both persons are lawfully married to each other at the time of  
2 the alleged violation.

3 (e) That other person is at least 16 years of age but less  
4 than 18 years of age and a student at a public or nonpublic school,  
5 and the actor is a teacher, substitute teacher, **COACH**, or  
6 administrator of that public or nonpublic school. This subdivision  
7 does not apply if the other person is emancipated or if both  
8 persons are lawfully married to each other at the time of the  
9 alleged violation.

10 (2) Criminal sexual conduct in the third degree is a felony  
11 punishable by imprisonment for not more than 15 years.