

SENATE BILL No. 120

February 1, 2005, Introduced by Senators JOHNSON, BIRKHOLZ, McMANUS,
HAMMERSTROM, JACOBS, CHERRY, SCOTT, TOY and BRATER 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 section 27a to chapter VIII.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER VIII

SEC. 27A. (1) EXCEPT AS PROVIDED IN SUBSECTION (4), IN A
CRIMINAL ACTION IN WHICH THE DEFENDANT IS ACCUSED OF AN OFFENSE
INVOLVING DOMESTIC VIOLENCE, EVIDENCE OF THE DEFENDANT'S COMMISSION
OF OTHER DOMESTIC VIOLENCE IS NOT MADE INADMISSIBLE BY MICHIGAN
RULE OF EVIDENCE 404 REGARDING CHARACTER EVIDENCE OR EVIDENCE OF
OTHER CRIMES, WRONGS, OR ACTS, IF THE EVIDENCE IS NOT EXCLUDED
UNDER THE MICHIGAN RULE OF EVIDENCE 403 REGARDING THE PROBATIVE
VALUE OF THE EVIDENCE.

1 (2) IN AN ACTION IN WHICH EVIDENCE IS OFFERED UNDER THIS
2 SECTION, THE PROSECUTION SHALL DISCLOSE THE EVIDENCE TO THE
3 DEFENDANT, INCLUDING A WITNESS STATEMENT OR A SUMMARY OF THE
4 SUBSTANCE OF TESTIMONY THAT IS EXPECTED TO BE OFFERED.

5 (3) THIS SECTION DOES NOT LIMIT OR PRECLUDE THE ADMISSION OR
6 CONSIDERATION OF EVIDENCE UNDER ANY OTHER STATUTE, RULE OF
7 EVIDENCE, OR CASE LAW.

8 (4) EVIDENCE OF AN ACT OCCURRING MORE THAN 10 YEARS BEFORE THE
9 CHARGED OFFENSE IS INADMISSIBLE UNDER THIS SECTION, UNLESS THE
10 COURT DETERMINES THAT ADMITTING THIS EVIDENCE IS IN THE INTEREST OF
11 JUSTICE.

12 (5) AS USED IN THIS SECTION:

13 (A) "FAMILY OR HOUSEHOLD MEMBER" MEANS 1 OF THE FOLLOWING:

14 (i) A SPOUSE OR FORMER SPOUSE.

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

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

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

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

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

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

27 (iv) ENGAGING IN ACTIVITY TOWARD A FAMILY OR HOUSEHOLD MEMBER

1 THAT WOULD CAUSE A REASONABLE PERSON TO FEEL TERRORIZED,
2 FRIGHTENED, INTIMIDATED, THREATENED, HARASSED, OR MOLESTED.