

Act No. 165
Public Acts of 2006
Approved by the Governor
May 29, 2006
Filed with the Secretary of State
May 30, 2006
EFFECTIVE DATE: August 28, 2006

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006**

Introduced by Senators Stamas, Allen, Barcia, Bishop, Cassis, Cherry, Cropsey, Garcia, Gilbert, Goschka, Hammerstrom, Jelinek, Johnson, McManus, Olshove, Patterson, Prusi, Sanborn, Schauer, Sikkema, Toy and Van Woerkom

ENROLLED SENATE BILL No. 709

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 520b (MCL 750.520b), as amended by 2002 PA 714.

The People of the State of Michigan enact:

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

- (a) That other person is under 13 years of age.
- (b) That other person is at least 13 but less than 16 years of age and any of the following:
 - (i) The actor is a member of the same household as the victim.
 - (ii) The actor is related to the victim by blood or affinity to the fourth degree.
 - (iii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.
 - (iv) The actor is a teacher, substitute teacher, or administrator of the public or nonpublic school in which that other person is enrolled.
- (c) Sexual penetration occurs under circumstances involving the commission of any other felony.
- (d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:
 - (i) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.
 - (ii) The actor uses force or coercion to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in subdivision (f)(i) to (v).
- (e) The actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.
- (f) The actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration. Force or coercion includes but is not limited to any of the following circumstances:
 - (i) When the actor overcomes the victim through the actual application of physical force or physical violence.

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

(iii) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute this threat. As used in this subdivision, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.

(iv) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes that are medically recognized as unethical or unacceptable.

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

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

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

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

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

(2) Criminal sexual conduct in the first degree is a felony punishable as follows:

(a) Except as provided in subdivision (b), by imprisonment for life or for any term of years.

(b) For a violation committed by an individual 17 years of age or older against an individual less than 13 years of age, by imprisonment for life without the possibility of parole if the individual 17 years of age or older was previously convicted of a violation of this section or section 520c, 520d, 520e, or 520g committed against an individual less than 13 years of age or a violation of a law of the United States, another state, or political subdivision of another state, substantially corresponding to this section or section 520c, 520d, 520e, or 520g committed against an individual less than 13 years of age.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 717.

(b) Senate Bill No. 718.

(c) Senate Bill No. 1122.

(d) House Bill No. 5421.

(e) House Bill No. 5422.

(f) House Bill No. 5531.

(g) House Bill No. 5532.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved _____

Governor