

SUBSTITUTE FOR
HOUSE BILL NO. 5041

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 520c (MCL 750.520c), as amended by 2007 PA 163.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 520c. (1) A person is guilty of criminal sexual conduct
2 in the second degree if the person engages in sexual contact 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 by blood or affinity to the fourth
9 degree to the victim.
10 (iii) The actor is in a position of authority over the victim

1 and the actor used this authority to coerce the victim to submit.

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

6 (v) The actor is an employee or a contractual service provider
7 of the public school, nonpublic school, school district, or
8 intermediate school district in which that other person is
9 enrolled, or is a volunteer who is not a student in any public
10 school or nonpublic school, or is an employee of this state or of a
11 local unit of government of this state or of the United States
12 assigned to provide any service to that public school, nonpublic
13 school, school district, or intermediate school district, and the
14 actor uses his or her employee, contractual, or volunteer status to
15 gain access to, or to establish a relationship with, that other
16 person.

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

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

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

23 (ii) The actor uses force or coercion to accomplish the sexual
24 contact. Force or coercion includes, but is not limited to, any of
25 the circumstances listed in section 520b(1)(f).

26 (e) The actor is armed with a weapon, or any article used or
27 fashioned in a manner to lead a person to reasonably believe it to

1 be a weapon.

2 (f) The actor causes personal injury to the victim and force
3 or coercion is used to accomplish the sexual contact. Force or
4 coercion includes, but is not limited to, any of the circumstances
5 listed in section 520b(1)(f).

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

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

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

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

16 (i) That other person is under the jurisdiction of the
17 department of corrections and the actor is an employee or a
18 contractual employee of, or a volunteer with, the department of
19 corrections who knows that the other person is under the
20 jurisdiction of the department of corrections.

21 (j) That other person is under the jurisdiction of the
22 department of corrections and the actor is an employee or a
23 contractual employee of, or a volunteer with, a private vendor that
24 operates a youth correctional facility under section 20g of the
25 corrections code of 1953, 1953 PA 232, MCL 791.220g, who knows that
26 the other person is under the jurisdiction of the department of
27 corrections.

1 (k) That other person is a prisoner or probationer under the
2 jurisdiction of a county for purposes of imprisonment or a work
3 program or other probationary program and the actor is an employee
4 or a contractual employee of or a volunteer with the county or the
5 department of corrections who knows that the other person is under
6 the county's jurisdiction **AND WHO ENGAGES IN SEXUAL CONTACT WITH**
7 **THE VICTIM WHILE THE VICTIM IS IMPRISONED OR WHO USES HIS OR HER**
8 **POSITION OF AUTHORITY OVER THE VICTIM TO GAIN ACCESS TO OR TO**
9 **COERCE OR OTHERWISE ENCOURAGE THE VICTIM TO ENGAGE IN SEXUAL**
10 **CONTACT DURING ANY TERM OF SUPERVISION.**

11 (l) The actor knows or has reason to know that a court has
12 detained the victim in a facility while the victim is awaiting a
13 trial or hearing, or committed the victim to a facility as a result
14 of the victim having been found responsible for committing an act
15 that would be a crime if committed by an adult, and the actor is an
16 employee or contractual employee of, or a volunteer with, the
17 facility in which the victim is detained or to which the victim was
18 committed.

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

21 (a) By imprisonment for not more than 15 years.

22 (b) In addition to the penalty specified in subdivision (a),
23 the court shall sentence the defendant to lifetime electronic
24 monitoring under section 520n if the violation involved sexual
25 contact committed by an individual 17 years of age or older against
26 an individual less than 13 years of age.

27 Enacting section 1. This amendatory act takes effect July 1,

1 2008.