

# HOUSE BILL No. 5041

July 19, 2007, Introduced by Reps. Meadows, Alma Smith, Corriveau, LeBlanc and Hammel  
and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 520c (MCL 750.520c), as amended by 2006 PA 171.

**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.

1           (iii) The actor is in a position of authority over the victim  
2 and the actor 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 contact occurs under circumstances involving the  
7 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 contact. Force or coercion includes, but is not limited to, any of  
14 the circumstances listed in section 520b(1)(f).

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

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

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

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

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

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

5           (i) That other person is under the jurisdiction of the  
6 department of corrections and the actor is an employee or a  
7 contractual employee of, or a volunteer with, the department of  
8 corrections who knows that the other person is under the  
9 jurisdiction of the department of corrections.

10           (j) That other person is under the jurisdiction of the  
11 department of corrections and the actor is an employee or a  
12 contractual employee of, or a volunteer with, a private vendor that  
13 operates a youth correctional facility under section 20g of **THE**  
14 **CORRECTIONS CODE OF 1953**, 1953 PA 232, MCL 791.220g, who knows that  
15 the other person is under the jurisdiction of the department of  
16 corrections.

17           (k) That other person is a prisoner or probationer under the  
18 jurisdiction of a county for purposes of imprisonment or a work  
19 program or other probationary program and the actor is an employee  
20 or a contractual employee of or a volunteer with the county or the  
21 department of corrections who knows that the other person is under  
22 the county's jurisdiction **AND WHO USES HIS OR HER POSITION OF**  
23 **AUTHORITY OVER THE VICTIM TO COERCE THE VICTIM TO SUBMIT.**

24           (l) The actor knows or has reason to know that a court has  
25 detained the victim in a facility while the victim is awaiting a  
26 trial or hearing, or committed the victim to a facility as a result  
27 of the victim having been found responsible for committing an act

1 that would be a crime if committed by an adult, and the actor is an  
2 employee or contractual employee of, or a volunteer with, the  
3 facility in which the victim is detained or to which the victim was  
4 committed.

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

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

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