

HOUSE BILL No. 4808

June 6, 2013, Introduced by Reps. O'Brien, Pscholka, Haveman, Pettalia, Howrylak, Potvin, Heise, Robinson, Kesto, Walsh, Cavanagh, Schmidt, Tlaib, Shirkey, Irwin, Lipton, Lori, Price, Haines, Victory, Kandrevas, Foster, Lyons and Jacobsen and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 16, 18, 200i, 204, 207, 209, 210, 211a, 316, 436, 520b, and 543f (MCL 750.16, 750.18, 750.200i, 750.204, 750.207, 750.209, 750.210, 750.211a, 750.316, 750.436, 750.520b, and 750.543f), sections 16 and 18 as amended by 2004 PA 213, sections 200i, 204, 207, 209, and 210 as amended by 2003 PA 257, section 211a as amended by 2004 PA 523, section 316 as amended by 2006 PA 415, section 436 as amended by 2002 PA 135, section 520b as amended by 2012 PA 372, and section 543f as added by 2002 PA 113.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16. (1) Except as otherwise provided in this section, a
2 person who knowingly or recklessly commits any of the following
3 actions is guilty of a felony punishable by imprisonment for not

1 more than 2 years or a fine of not more than \$1,000.00, or both:

2 (a) Adulterates, misbrands, removes, or substitutes a drug or
3 medicine so as to render that drug or medicine injurious to health.

4 (b) Sells, offers for sale, possesses for sale, causes to be
5 sold, or manufactures for sale a drug or medicine that has been
6 adulterated, misbranded, removed, or substituted so as to render it
7 injurious to health.

8 (2) A person who ~~violates~~ **COMMITTS A VIOLATION OF** subsection

9 (1) ~~, which violation~~ **THAT** results in personal injury ~~,~~ is guilty
10 of a felony punishable by imprisonment for not more than 4 years or
11 a fine of not more than \$4,000.00, or both.

12 (3) A person who ~~violates~~ **COMMITTS A VIOLATION OF** subsection

13 (1) ~~, which violation~~ **THAT** results in serious impairment of a body
14 function ~~,~~ is guilty of a felony punishable by imprisonment for not
15 more than 5 years or a fine of not more than \$5,000.00, or both.

16 (4) A person who ~~violates~~ **COMMITTS A VIOLATION OF** subsection

17 (1) ~~, which violation~~ **THAT** results in death ~~,~~ is guilty of a felony
18 punishable by imprisonment for not more than 15 years or a fine of
19 not more than \$20,000.00, or both.

20 (5) ~~A~~ **EXCEPT AS PROVIDED IN SECTIONS 32 AND 33 OF CHAPTER IX**

21 **OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.32 AND**

22 **769.33, A** person who ~~violates~~ **COMMITTS A VIOLATION OF** subsection (1)

23 with the intent to kill or to cause serious impairment of a body

24 function of 2 or more individuals ~~, which violation~~ **THAT** results in

25 death ~~,~~ is guilty of a felony punishable by imprisonment for life

26 without possibility of parole or life without possibility of parole

27 and a fine of not more than \$40,000.00. It is not a defense to a

1 charge under this subsection that the person did not intend to kill
2 a specific individual or did not intend to cause serious impairment
3 of a body function of 2 or more specific individuals.

4 (6) As used in this section, "serious impairment of a body
5 function" means that phrase as defined in section 58c of the
6 Michigan vehicle code, 1949 PA 300, MCL 257.58c.

7 (7) This section does not prohibit an individual from being
8 charged with, convicted of, or punished for any other violation of
9 law that is committed by that individual while violating this
10 section.

11 Sec. 18. (1) Except for the purpose of compounding in the
12 necessary preparation of medicine, a person shall not knowingly or
13 recklessly mix, color, stain, or powder, or order or permit another
14 person to mix, color, stain, or powder, a drug or medicine with an
15 ingredient or material so as to injuriously affect the quality or
16 potency of the drug or medicine.

17 (2) A person shall not sell, offer for sale, possess for sale,
18 cause to be sold, or manufacture for sale a drug or medicine mixed,
19 colored, stained, or powdered in the manner proscribed in
20 subsection (1).

21 (3) Except as otherwise provided in this section, a person who
22 violates subsection (1) or (2) is guilty of a felony punishable by
23 imprisonment for not more than 2 years or a fine of not more than
24 \$1,000.00, or both.

25 (4) A person who ~~violates~~ **COMMITTS A VIOLATION OF** subsection
26 (1) or (2) ~~, which violation~~ **THAT** results in personal injury ~~is~~
27 guilty of a felony punishable by imprisonment for not more than 4

1 years or a fine of not more than \$4,000.00, or both.

2 (5) A person who ~~violates~~ **COMMITTS A VIOLATION OF** subsection
3 (1) or (2) ~~, which violation~~ **THAT** results in serious impairment of
4 a body function ~~, is~~ guilty of a felony punishable by imprisonment
5 for not more than 5 years or a fine of not more than \$5,000.00, or
6 both.

7 (6) A person who ~~violates~~ **COMMITTS A VIOLATION OF** subsection
8 (1) or (2) ~~, which violation~~ **THAT** results in death ~~, is~~ guilty of a
9 felony punishable by imprisonment for not more than 15 years or a
10 fine of not more than \$20,000.00, or both.

11 (7) ~~A~~ **EXCEPT AS PROVIDED IN SECTIONS 32 AND 33 OF CHAPTER IX**
12 **OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.32 AND**
13 **769.33, A** person who ~~violates~~ **COMMITTS A VIOLATION OF** subsection (1)
14 or (2) with the intent to kill or to cause serious impairment of a
15 body function of 2 or more individuals ~~, which violation~~ **THAT**
16 results in death ~~, is~~ guilty of a felony punishable by imprisonment
17 for life without possibility of parole or life without possibility
18 of parole and a fine of not more than \$40,000.00. It is not a
19 defense to a charge under this subsection that the person did not
20 intend to kill a specific individual or did not intend to cause
21 serious impairment of a body function of 2 or more specific
22 individuals.

23 (8) As used in this section, "serious impairment of a body
24 function" means that phrase as defined in section 58c of the
25 Michigan vehicle code, 1949 PA 300, MCL 257.58c.

26 (9) This section does not prohibit an individual from being
27 charged with, convicted of, or punished for any other violation of

1 law that is committed by that individual while violating this
2 section.

3 Sec. 200i. (1) A person shall not manufacture, deliver,
4 possess, transport, place, use, or release any of the following for
5 an unlawful purpose:

6 (a) A harmful biological substance or a harmful biological
7 device.

8 (b) A harmful chemical substance or a harmful chemical device.

9 (c) A harmful radioactive material or a harmful radioactive
10 device.

11 (d) A harmful electronic or electromagnetic device.

12 (2) A person who violates subsection (1) is guilty of a crime
13 as follows:

14 (a) Except as provided in subdivisions (b) to (e), the person
15 is guilty of a felony punishable by imprisonment for not more than
16 15 years or a fine of not more than \$10,000.00, or both.

17 (b) If the violation directly or indirectly results in
18 property damage, the person is guilty of a felony punishable by
19 imprisonment for not more than 20 years or a fine of not more than
20 \$15,000.00, or both.

21 (c) If the violation directly or indirectly results in
22 personal injury to another individual other than serious impairment
23 of a body function or death, the person is guilty of a felony
24 punishable by imprisonment for not more than 25 years or a fine of
25 not more than \$20,000.00, or both.

26 (d) If the violation directly or indirectly results in serious
27 impairment of a body function to another individual, the person is

1 guilty of a felony punishable by imprisonment for life or any term
2 of years or a fine of not more than \$25,000.00, or both.

3 (e) ~~If~~ **EXCEPT AS PROVIDED IN SECTIONS 32 AND 33 OF CHAPTER IX**
4 **OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.32 AND**
5 **769.33, IF** the violation directly or indirectly results in the
6 death of another individual, the person is guilty of a felony and
7 shall be punished by imprisonment for life without eligibility for
8 parole and may be fined not more than \$40,000.00, or both.

9 Sec. 204. (1) A person shall not send or deliver to another
10 person or cause to be taken or received by any person any kind of
11 explosive substance or any other dangerous thing with the intent to
12 frighten, terrorize, intimidate, threaten, harass, injure, or kill
13 any person, or with the intent to damage or destroy any real or
14 personal property without the permission of the property owner or,
15 if the property is public property, without the permission of the
16 governmental agency having authority over that property.

17 (2) A person who violates this section is guilty of a crime as
18 follows:

19 (a) Except as otherwise provided in subdivisions (b) to (e),
20 the person is guilty of a felony punishable by imprisonment for not
21 more than 15 years or a fine of not more than \$10,000.00, or both.

22 (b) If the violation damages the property of another person,
23 the person is guilty of a felony punishable by imprisonment for not
24 more than 20 years or a fine of not more than \$15,000.00, or both.

25 (c) If the violation causes physical injury to another
26 individual, other than serious impairment of a body function, the
27 person is guilty of a felony punishable by imprisonment for not

1 more than 25 years or a fine of not more than \$20,000.00, or both.

2 (d) If the violation causes serious impairment of a body
3 function to another individual, the person is guilty of a felony
4 punishable by imprisonment for life or any term of years or a fine
5 of not more than \$25,000.00, or both.

6 (e) ~~If~~ **EXCEPT AS PROVIDED IN SECTIONS 32 AND 33 OF CHAPTER IX**
7 **OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.32 AND**
8 **769.33, IF** the violation causes the death of another individual,
9 the person is guilty of a felony and shall be imprisoned for life
10 without eligibility for parole and may be fined not more than
11 \$40,000.00, or both.

12 Sec. 207. (1) A person shall not place an explosive substance
13 in or near any real or personal property with the intent to
14 frighten, terrorize, intimidate, threaten, harass, injure, or kill
15 any person, or with the intent to damage or destroy any real or
16 personal property without the permission of the property owner or,
17 if the property is public property, without the permission of the
18 governmental agency having authority over that property.

19 (2) A person who violates this section is guilty of a crime as
20 follows:

21 (a) Except as otherwise provided in subdivisions (b) to (e),
22 the person is guilty of a felony punishable by imprisonment for not
23 more than 15 years or a fine of not more than \$10,000.00, or both.

24 (b) If the violation damages the property of another person,
25 the person is guilty of a felony punishable by imprisonment for not
26 more than 20 years or a fine of not more than \$15,000.00, or both.

27 (c) If the violation causes physical injury to another

1 individual, other than serious impairment of a body function, the
2 person is guilty of a felony punishable by imprisonment for not
3 more than 25 years or a fine of not more than \$20,000.00, or both.

4 (d) If the violation causes serious impairment of a body
5 function to another individual, the person is guilty of a felony
6 punishable by imprisonment for life or for any term of years or a
7 fine of not more than \$25,000.00, or both.

8 (e) ~~If~~ **EXCEPT AS PROVIDED IN SECTIONS 32 AND 33 OF CHAPTER IX**
9 **OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.32 AND**
10 **769.33, IF** the violation causes the death of another individual,
11 the person is guilty of a felony and shall be imprisoned for life
12 without eligibility for parole and may be fined not more than
13 \$40,000.00, or both.

14 Sec. 209. (1) A person who places an offensive or injurious
15 substance or compound in or near to any real or personal property
16 with intent to wrongfully injure or coerce another person or to
17 injure the property or business of another person, or to interfere
18 with another person's use, management, conduct, or control of his
19 or her business or property is guilty of a crime as follows:

20 (a) Except as otherwise provided in subdivisions (b) to (e),
21 the person is guilty of a felony punishable by imprisonment for not
22 more than 15 years or a fine of not more than \$10,000.00, or both.

23 (b) If the violation damages the property of another person,
24 the person is guilty of a felony punishable by imprisonment for not
25 more than 20 years or a fine of not more than \$15,000.00, or both.

26 (c) If the violation causes physical injury to another
27 individual, other than serious impairment of a body function, the

1 person is guilty of a felony punishable by imprisonment for not
2 more than 25 years or a fine of not more than \$20,000.00, or both.

3 (d) If the violation causes serious impairment of a body
4 function to another individual, the person is guilty of a felony
5 punishable by imprisonment for life or for any term of years or a
6 fine of not more than \$25,000.00, or both.

7 (e) ~~IF~~ **EXCEPT AS PROVIDED IN SECTIONS 32 AND 33 OF CHAPTER IX**
8 **OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.32 AND**
9 **769.33, IF** the violation causes the death of another individual,
10 the person is guilty of a felony and shall be imprisoned for life
11 without eligibility for parole and may be fined not more than
12 \$40,000.00, or both.

13 (2) A person who places an offensive or injurious substance or
14 compound in or near to any real or personal property with the
15 intent to annoy or alarm any person is guilty of a felony
16 punishable by imprisonment for not more than 5 years or a fine of
17 not more than \$3,000.00, or both.

18 Sec. 210. (1) A person shall not carry or possess an explosive
19 or combustible substance or a substance or compound that when
20 combined with another substance or compound will become explosive
21 or combustible or an article containing an explosive or combustible
22 substance or a substance or compound that when combined with
23 another substance or compound will become explosive or combustible,
24 with the intent to frighten, terrorize, intimidate, threaten,
25 harass, injure, or kill any person, or with the intent to damage or
26 destroy any real or personal property without the permission of the
27 property owner or, if the property is public property, without the

1 permission of the governmental agency having authority over that
2 property.

3 (2) A person who violates subsection (1) is guilty of a crime
4 as follows:

5 (a) Except as provided in subdivisions (b) to (e), the person
6 is guilty of a felony punishable by imprisonment for not more than
7 15 years or a fine of not more than \$10,000.00, or both.

8 (b) If the violation damages the property of another person,
9 the person is guilty of a felony punishable by imprisonment for not
10 more than 20 years or a fine of not more than \$15,000.00, or both.

11 (c) If the violation causes physical injury to another
12 individual, other than serious impairment of a body function, the
13 person is guilty of a felony punishable by imprisonment for not
14 more than 25 years or a fine of not more than \$20,000.00, or both.

15 (d) If the violation causes serious impairment of a body
16 function to another individual, the person is guilty of a felony
17 punishable by imprisonment for life or for any term of years or a
18 fine of not more than \$25,000.00, or both.

19 (e) ~~IF~~ **EXCEPT AS PROVIDED IN SECTIONS 32 AND 33 OF CHAPTER IX**
20 **OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.32 AND**
21 **769.33, IF** the violation causes the death of another individual,
22 the person is guilty of a felony and shall be imprisoned for life
23 without eligibility for parole and may be fined not more than
24 \$40,000.00, or both.

25 Sec. 211a. (1) A person shall not do either of the following:

26 (a) Except as provided in subdivision (b), manufacture, buy,
27 sell, furnish, or possess a Molotov cocktail or any similar device.

1 (b) Manufacture, buy, sell, furnish, or possess any device
2 that is designed to explode or that will explode upon impact or
3 with the application of heat or a flame or that is highly
4 incendiary, with the intent to frighten, terrorize, intimidate,
5 threaten, harass, injure, or kill any person, or with the intent to
6 damage or destroy any real or personal property without the
7 permission of the property owner or, if the property is public
8 property, without the permission of the governmental agency having
9 authority over that property.

10 (2) A person who violates subsection (1) is guilty of a crime
11 as follows:

12 (a) For a violation of subsection (1)(a), the person is guilty
13 of a felony punishable by imprisonment for not more than 4 years or
14 a fine of not more than \$2,000.00, or both.

15 (b) For a violation of subsection (1)(b) and except as
16 provided in subdivisions (c) to (f), the person is guilty of a
17 felony punishable by imprisonment for not more than 15 years or a
18 fine of not more than \$10,000.00, or both.

19 (c) If the violation damages the property of another person,
20 the person is guilty of a felony punishable by imprisonment for not
21 more than 20 years or a fine of not more than \$15,000.00, or both.

22 (d) If the violation causes physical injury to another
23 individual, other than serious impairment of a body function, the
24 person is guilty of a felony punishable by imprisonment for not
25 more than 25 years or a fine of not more than \$20,000.00, or both.

26 (e) If the violation causes serious impairment of a body
27 function to another individual, the person is guilty of a felony

1 punishable by imprisonment for life or any term of years or a fine
2 of not more than \$25,000.00, or both.

3 (f) ~~If~~**EXCEPT AS PROVIDED IN SECTIONS 32 AND 33 OF CHAPTER IX**
4 **OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.32 AND**
5 **769.33, IF** the violation causes the death of another individual,
6 the person is guilty of a felony and shall be imprisoned for life
7 without eligibility for parole and may be fined not more than
8 \$40,000.00, or both.

9 (3) As used in this section, "Molotov cocktail" means an
10 improvised incendiary device that is constructed from a bottle or
11 other container filled with a flammable or combustible material or
12 substance and that has a wick, fuse, or other device designed or
13 intended to ignite the contents of the device when it is thrown or
14 placed near a target.

15 Sec. 316. (1) ~~A~~**EXCEPT AS PROVIDED IN SECTIONS 32 AND 33 OF**
16 **CHAPTER IX OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL**
17 **769.32 AND 769.33, A** person who commits any of the following is
18 guilty of first degree murder and shall be punished by imprisonment
19 for life **WITHOUT ELIGIBILITY FOR PAROLE:**

20 (a) Murder perpetrated by means of poison, lying in wait, or
21 any other willful, deliberate, and premeditated killing.

22 (b) Murder committed in the perpetration of, or attempt to
23 perpetrate, arson, criminal sexual conduct in the first, second, or
24 third degree, child abuse in the first degree, a major controlled
25 substance offense, robbery, carjacking, breaking and entering of a
26 dwelling, home invasion in the first or second degree, larceny of
27 any kind, extortion, kidnapping, vulnerable adult abuse in the

1 first ~~and OR~~ second degree under section 145n, torture under
2 section 85, or aggravated stalking under section 411i.

3 (c) A murder of a peace officer or a corrections officer
4 committed while the peace officer or corrections officer is
5 lawfully engaged in the performance of any of his or her duties as
6 a peace officer or corrections officer, knowing that the peace
7 officer or corrections officer is a peace officer or corrections
8 officer engaged in the performance of his or her duty as a peace
9 officer or corrections officer.

10 (2) As used in this section:

11 (a) "Arson" means a felony violation of chapter X.

12 (b) "Corrections officer" means any of the following:

13 (i) A prison or jail guard or other prison or jail personnel.

14 (ii) Any of the personnel of a boot camp, special alternative
15 incarceration unit, or other minimum security correctional
16 facility.

17 (iii) A parole or probation officer.

18 (c) "Major controlled substance offense" means any of the
19 following:

20 (i) A violation of section 7401(2)(a)(i) to (iii) of the public
21 health code, 1978 PA 368, MCL 333.7401.

22 (ii) A violation of section 7403(2)(a)(i) to (iii) of the public
23 health code, 1978 PA 368, MCL 333.7403.

24 (iii) A conspiracy to commit an offense listed in subparagraph
25 (i) or (ii).

26 (d) "Peace officer" means any of the following:

27 (i) A police or conservation officer of this state or a

1 political subdivision of this state.

2 (ii) A police or conservation officer of the United States.

3 (iii) A police or conservation officer of another state or a
4 political subdivision of another state.

5 Sec. 436. (1) A person shall not do either of the following:

6 (a) Willfully mingle a poison or harmful substance with a
7 food, drink, nonprescription medicine, or pharmaceutical product,
8 or willfully place a poison or harmful substance in a spring, well,
9 reservoir, or public water supply, knowing or having reason to know
10 that the food, drink, nonprescription medicine, pharmaceutical
11 product, or water may be ingested or used by a person to his or her
12 injury.

13 (b) Maliciously inform another person that a poison or harmful
14 substance has been or will be placed in a food, drink,
15 nonprescription medicine, pharmaceutical product, spring, well,
16 reservoir, or public water supply, knowing that the information is
17 false and that it is likely that the information will be
18 disseminated to the public.

19 (2) A person who violates subsection (1)(a) is guilty of a
20 crime as follows:

21 (a) Except as provided in subdivisions (b) to (e), the person
22 is guilty of a felony punishable by imprisonment for not more than
23 15 years or a fine of not more than \$10,000.00, or both.

24 (b) If the violation damages the property of another person,
25 the person is guilty of a felony punishable by imprisonment for not
26 more than 20 years or a fine of not more than \$15,000.00, or both.

27 (c) If the violation causes physical injury to another

1 individual, other than serious impairment of a body function, the
2 person is guilty of a felony punishable by imprisonment for not
3 more than 25 years or a fine of not more than \$20,000.00, or both.

4 (d) If the violation causes serious impairment of a body
5 function to another individual, the person is guilty of a felony
6 punishable by imprisonment for life or any term of years or a fine
7 of not more than \$25,000.00, or both. As used in this subdivision,
8 "serious impairment of a body function" means that term as defined
9 in section 58c of the Michigan vehicle code, 1949 PA 300, MCL
10 257.58c.

11 (e) ~~If~~ **EXCEPT AS PROVIDED IN SECTIONS 32 AND 33 OF CHAPTER IX**
12 **OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.32 AND**
13 **769.33, IF** the violation causes the death of another individual,
14 the person is guilty of a felony and shall be imprisoned for life
15 without eligibility for parole and may be fined not more than
16 \$40,000.00, or both.

17 (3) A person who violates subsection (1)(b) is guilty of a
18 crime as follows:

19 (a) Except as provided in subdivision (b), the person is
20 guilty of a felony punishable by imprisonment for not more than 4
21 years or a fine of not more than \$2,000.00, or both.

22 (b) If the person has previously been convicted of violating
23 subsection (1)(b), the person is guilty of a felony punishable by
24 imprisonment for not more than 10 years or a fine of not more than
25 \$5,000.00, or both.

26 (4) The court may order a term of imprisonment imposed for a
27 violation of this section to be served consecutively to a term of

1 imprisonment imposed for any other violation of law arising out of
2 the same transaction as the violation of this section.

3 (5) This section does not prohibit an individual from being
4 charged with, convicted of, or punished for any other violation of
5 law that is committed by that individual while violating this
6 section.

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

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

11 (b) That other person is at least 13 but less than 16 years of
12 age and any of the following:

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

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

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

18 (iv) The actor is a teacher, substitute teacher, or
19 administrator of the public school, nonpublic school, school
20 district, or intermediate school district in which that other
21 person is enrolled.

22 (v) The actor is an employee or a contractual service provider
23 of the public school, nonpublic school, school district, or
24 intermediate school district in which that other person is
25 enrolled, or is a volunteer who is not a student in any public
26 school or nonpublic school, or is an employee of this state or of a
27 local unit of government of this state or of the United States

1 assigned to provide any service to that public school, nonpublic
2 school, school district, or intermediate school district, and the
3 actor uses his or her employee, contractual, or volunteer status to
4 gain access to, or to establish a relationship with, that other
5 person.

6 (vi) The actor is an employee, contractual service provider, or
7 volunteer of a child care organization, or a person licensed to
8 operate a foster family home or a foster family group home in which
9 that other person is a resident, and the sexual penetration occurs
10 during the period of that other person's residency. As used in this
11 subparagraph, "child care organization", "foster family home", and
12 "foster family group home" mean those terms as defined in section 1
13 of 1973 PA 116, MCL 722.111.

14 (c) Sexual penetration occurs under circumstances involving
15 the commission of any other felony.

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

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

20 (ii) The actor uses force or coercion to accomplish the sexual
21 penetration. Force or coercion includes, but is not limited to, any
22 of the circumstances listed in subdivision (f).

23 (e) The actor is armed with a weapon or any article used or
24 fashioned in a manner to lead the victim to reasonably believe it
25 to be a weapon.

26 (f) The actor causes personal injury to the victim and force
27 or coercion is used to accomplish sexual penetration. Force or

1 coercion includes, but is not limited to, any of the following
2 circumstances:

3 (i) When the actor overcomes the victim through the actual
4 application of physical force or physical violence.

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

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

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

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

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

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

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

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

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

3 (a) Except as provided in subdivisions (b) and (c), by
4 imprisonment for life or for any term of years.

5 (b) For a violation that is committed by an individual 17
6 years of age or older against an individual less than 13 years of
7 age by imprisonment for life or any term of years, but not less
8 than 25 years.

9 (c) For a violation that is committed by an individual ~~17~~18
10 years of age or older against an individual less than 13 years of
11 age, by imprisonment for life without the possibility of parole if
12 the person was previously convicted of a violation of this section
13 or section 520c, 520d, 520e, or 520g committed against an
14 individual less than 13 years of age or a violation of law of the
15 United States, another state or political subdivision substantially
16 corresponding to a violation of this section or section 520c, 520d,
17 520e, or 520g committed against an individual less than 13 years of
18 age.

19 (d) In addition to any other penalty imposed under subdivision
20 (a) or (b), the court shall sentence the defendant to lifetime
21 electronic monitoring under section 520n.

22 (3) The court may order a term of imprisonment imposed under
23 this section to be served consecutively to any term of imprisonment
24 imposed for any other criminal offense arising from the same
25 transaction.

26 Sec. 543f. (1) A person is guilty of terrorism when that
27 person knowingly and with premeditation commits an act of

1 terrorism.

2 (2) Terrorism is a felony punishable by imprisonment for life
3 or any term of years or a fine of not more than \$100,000.00, or
4 both. However, **EXCEPT AS PROVIDED IN SECTIONS 32 AND 33 OF CHAPTER**
5 **IX OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.32 AND**
6 **769.33**, if death was caused by the terrorist act, the person shall
7 be punished by imprisonment for life without eligibility for
8 parole.

9 Enacting section 1. This amendatory act does not take effect
10 unless all of the following bills of the 97th Legislature are
11 enacted into law:

12 (a) Senate Bill No. 319.

13 (b) Senate Bill No.____ or House Bill No.____ (request no.
14 00240'13).