

# SENATE BILL No. 502

September 17, 2013, Introduced by Senators ANDERSON, HOPGOOD, ANANICH, JONES, BIEDA, JOHNSON, WHITMER, HUNTER, GREGORY, HOOD and YOUNG and referred to the Committee on Families, Seniors and Human Services.

A bill to amend 1994 PA 295, entitled  
"Sex offenders registration act,"  
by amending section 2 (MCL 28.722), as amended by 2011 PA 17.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2. As used in this act:

2       (a) "Aircraft" means that term as defined in section 2 of the  
3 aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2.

4       (b) "Convicted" means 1 of the following:

5       (i) Having a judgment of conviction or a probation order  
6 entered in any court having jurisdiction over criminal offenses,  
7 including, but not limited to, a tribal court or a military court,  
8 and including a conviction subsequently set aside under 1965 PA  
9 213, MCL 780.621 to 780.624.

1           (ii) Either of the following:

2           (A) Being assigned to youthful trainee status under sections  
3 11 to 15 of chapter II of the code of criminal procedure, 1927 PA  
4 175, MCL 762.11 to 762.15, before October 1, 2004. This sub-  
5 subparagraph does not apply if a petition was granted under section  
6 8c at any time allowing the individual to discontinue registration  
7 under this act, including a reduced registration period that  
8 extends to or past July 1, 2011, regardless of the tier designation  
9 that would apply on and after that date.

10          (B) Being assigned to youthful trainee status under sections  
11 11 to 15 of chapter II of the code of criminal procedure, 1927 PA  
12 175, MCL 762.11 to 762.15, before October 1, 2004 if the individual  
13 is convicted of any other felony on or after July 1, 2011.

14          (iii) Having an order of disposition entered under section 18 of  
15 chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18,  
16 that is open to the general public under section 28 of chapter XIIIA  
17 of the probate code of 1939, 1939 PA 288, MCL 712A.28, if both of  
18 the following apply:

19           (A) The individual was 14 years of age or older at the time of  
20 the offense.

21           (B) The order of disposition is for the commission of an  
22 offense that would classify the individual as a tier III offender.

23          (iv) Having an order of disposition or other adjudication in a  
24 juvenile matter in another state or country if both of the  
25 following apply:

26           (A) The individual is 14 years of age or older at the time of  
27 the offense.

1 (B) The order of disposition or other adjudication is for the  
2 commission of an offense that would classify the individual as a  
3 tier III offender.

4 (c) "Custodial authority" means 1 or more of the following  
5 apply:

6 (i) The actor was a member of the same household as the victim.

7 (ii) The actor was related to the victim by blood or affinity  
8 to the fourth degree.

9 (iii) The actor was in a position of authority over the victim  
10 and used this authority to coerce the victim to submit.

11 (iv) The actor was a teacher, substitute teacher, or  
12 administrator of the public school, nonpublic school, school  
13 district, or intermediate school district in which that other  
14 person was enrolled.

15 (v) The actor was an employee or a contractual service  
16 provider of the public school, nonpublic school, school district,  
17 or intermediate school district in which that other person was  
18 enrolled, or was a volunteer who was not a student in any public  
19 school or nonpublic school, or was an employee of this state or of  
20 a local unit of government of this state or of the United States  
21 assigned to provide any service to that public school, nonpublic  
22 school, school district, or intermediate school district, and the  
23 actor used his or her employee, contractual, or volunteer status to  
24 gain access to, or to establish a relationship with, that other  
25 person.

26 (vi) That other person was under the jurisdiction of the  
27 department of corrections and the actor was an employee or a

1 contractual employee of, or a volunteer with, the department of  
2 corrections who knew that the other person was under the  
3 jurisdiction of the department of corrections and used his or her  
4 position of authority over the victim to gain access to or to  
5 coerce or otherwise encourage the victim to engage in sexual  
6 contact.

7 (vii) That other person was under the jurisdiction of the  
8 department of corrections and the actor was an employee or a  
9 contractual employee of, or a volunteer with, a private vendor that  
10 operated a youth correctional facility under section 20g of the  
11 corrections code of 1953, 1953 PA 232, MCL 791.220g, who knew that  
12 the other person was under the jurisdiction of the department of  
13 corrections.

14 (viii) That other person was a prisoner or probationer under the  
15 jurisdiction of a county for purposes of imprisonment or a work  
16 program or other probationary program and the actor was an employee  
17 or a contractual employee of, or a volunteer with, the county or  
18 the department of corrections who knew that the other person was  
19 under the county's jurisdiction and used his or her position of  
20 authority over the victim to gain access to or to coerce or  
21 otherwise encourage the victim to engage in sexual contact.

22 (ix) The actor knew or had reason to know that a court had  
23 detained the victim in a facility while the victim was awaiting a  
24 trial or hearing, or committed the victim to a facility as a result  
25 of the victim having been found responsible for committing an act  
26 that would be a crime if committed by an adult, and the actor was  
27 an employee or contractual employee of, or a volunteer with, the

1 facility in which the victim was detained or to which the victim  
2 was committed.

3 (d) "Department" means the department of state police.

4 (e) "Employee" means an individual who is self-employed or  
5 works for any other entity as a full-time or part-time employee,  
6 contractual provider, or volunteer, regardless of whether he or she  
7 is financially compensated.

8 (f) "Felony" means that term as defined in section 1 of  
9 chapter I of the code of criminal procedure, 1927 PA 174, MCL  
10 761.1.

11 (g) "Immediately" means within 3 business days.

12 (h) "Indigent" means an individual to whom 1 or more of the  
13 following apply:

14 (i) He or she has been found by a court to be indigent within  
15 the last 6 months.

16 (ii) He or she qualifies for and receives assistance from the  
17 department of human services food assistance program.

18 (iii) He or she demonstrates an annual income below the current  
19 federal poverty guidelines.

20 (i) "Institution of higher education" means 1 or more of the  
21 following:

22 (i) A public or private community college, college, or  
23 university.

24 (ii) A public or private trade, vocational, or occupational  
25 school.

26 (j) "Local law enforcement agency" means the police department  
27 of a municipality.

1           (k) "Listed offense" means a tier I, tier II, or tier III  
2 offense.

3           (l) "Minor" means a victim of a listed offense who was less  
4 than 18 years of age at the time the offense was committed.

5           (m) "Municipality" means a city, village, or township of this  
6 state.

7           (n) "Registering authority" means the local law enforcement  
8 agency or sheriff's office having jurisdiction over the  
9 individual's residence, place of employment, or institution of  
10 higher learning, or the nearest department post designated to  
11 receive or enter sex offender registration information within a  
12 registration jurisdiction.

13           (o) "Registration jurisdiction" means each of the 50 states,  
14 the District of Columbia, the Commonwealth of Puerto Rico, Guam,  
15 the Northern Mariana Islands, the United States Virgin Islands,  
16 American Samoa, and the Indian tribes within the United States that  
17 elect to function as a registration jurisdiction.

18           (p) "Residence", as used in this act, for registration and  
19 voting purposes means that place at which a person habitually  
20 sleeps, keeps his or her personal effects, and has a regular place  
21 of lodging. If a person has more than 1 residence, or if a wife has  
22 a residence separate from that of the husband, that place at which  
23 the person resides the greater part of the time shall be his or her  
24 official residence for the purposes of this act. If a person is  
25 homeless or otherwise lacks a fixed or temporary residence,  
26 residence means the village, city, or township where the person  
27 spends a majority of his or her time. This section shall not be

1 construed to affect existing judicial interpretation of the term  
2 residence for purposes other than the purposes of this act.

3 (q) "Student" means an individual enrolled on a full- or part-  
4 time basis in a public or private educational institution,  
5 including, but not limited to, a secondary school, trade school,  
6 professional institution, or institution of higher education.

7 (r) "Tier I offender" means an individual convicted of a tier  
8 I offense who is not a tier II or tier III offender.

9 (s) "Tier I offense" means 1 or more of the following:

10 (i) A violation of section 145c(4) of the Michigan penal code,  
11 1931 PA 328, MCL 750.145c.

12 (ii) A violation of section 335a(2)(b) of the Michigan penal  
13 code, 1931 PA 328, MCL 750.335a, if a victim is a minor.

14 (iii) A violation of section 349b of the Michigan penal code,  
15 1931 PA 328, MCL 750.349b, if the victim is a minor.

16 **(iv) A VIOLATION OF SECTION 449A OF THE MICHIGAN PENAL CODE,**  
17 **1931 PA 328, MCL 750.449A.**

18 **(v) ~~(iv)~~** A violation of section 520e or 520g(2) of the Michigan  
19 penal code, 1931 PA 328, MCL 750.520e and 750.520g, if the victim  
20 is 18 years or older.

21 **(vi) ~~(v)~~** A violation of section 539j of the Michigan penal  
22 code, 1931 PA 328, MCL 750.539j, if a victim is a minor.

23 **(vii) ~~(vi)~~** Any other violation of a law of this state or a local  
24 ordinance of a municipality, other than a tier II or tier III  
25 offense, that by its nature constitutes a sexual offense against an  
26 individual who is a minor.

27 **(viii) ~~(vii)~~** An offense committed by a person who was, at the

1 time of the offense, a sexually delinquent person as defined in  
2 section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

3 (ix) ~~(viii)~~—An attempt or conspiracy to commit an offense  
4 described in subparagraphs (i) to ~~(vii)~~—(viii) .

5 (x) ~~(ix)~~—An offense substantially similar to an offense  
6 described in subparagraphs (i) to ~~(viii)~~—(ix) under a law of the  
7 United States that is specifically enumerated in 42 USC 16911,  
8 under a law of any state or any country, or under tribal or  
9 military law.

10 (t) "Tier II offender" means either of the following:

11 (i) A tier I offender who is subsequently convicted of another  
12 offense that is a tier I offense.

13 (ii) An individual convicted of a tier II offense who is not a  
14 tier III offender.

15 (u) "Tier II offense" means 1 or more of the following:

16 (i) A violation of section 145a of the Michigan penal code,  
17 1931 PA 328, MCL 750.145a.

18 (ii) A violation of section 145b of the Michigan penal code,  
19 1931 PA 328, MCL 750.145b.

20 (iii) A violation of section 145c(2) or (3) of the Michigan  
21 penal code, 1931 PA 328, MCL 750.145c.

22 (iv) A violation of section 145d(1)(a) of the Michigan penal  
23 code, 1931 PA 328, MCL 750.145d, except for a violation arising out  
24 of a violation of section 157c of the Michigan penal code, 1931 PA  
25 328, MCL 750.157c.

26 (v) A violation of section 158 of the Michigan penal code,  
27 1931 PA 328, MCL 750.158, committed against a minor unless either



1 of the following applies:

2 (A) All of the following:

3 (I) The victim consented to the conduct constituting the  
4 violation.

5 (II) The victim was at least 13 years of age but less than 16  
6 years of age at the time of the violation.

7 (III) The individual is not more than 4 years older than the  
8 victim.

9 (B) All of the following:

10 (I) The victim consented to the conduct constituting the  
11 violation.

12 (II) The victim was 16 or 17 years of age at the time of the  
13 violation.

14 (III) The victim was not under the custodial authority of the  
15 individual at the time of the violation.

16 (vi) A violation of section 338, 338a, or 338b of the Michigan  
17 penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b,  
18 committed against an individual 13 years of age or older but less  
19 than 18 years of age. This subparagraph does not apply if the court  
20 determines that either of the following applies:

21 (A) All of the following:

22 (I) The victim consented to the conduct constituting the  
23 violation.

24 (II) The victim was at least 13 years of age but less than 16  
25 years of age at the time of the violation.

26 (III) The individual is not more than 4 years older than the  
27 victim.

1 (B) All of the following:

2 (I) The victim consented to the conduct constituting the  
3 violation.

4 (II) The victim was 16 or 17 years of age at the time of the  
5 violation.

6 (III) The victim was not under the custodial authority of the  
7 individual at the time of the violation.

8 (vii) A violation of section 448 **OR 449A** of the Michigan penal  
9 code, 1931 PA 328, MCL 750.448 **AND 750.449A**, ~~if the victim is~~  
10 **INVOLVING** a minor.

11 (viii) A violation of section **452, 455, 456, OR 459** of the  
12 Michigan penal code, 1931 PA 328, MCL **750.452, 750.455, 750.456,**  
13 **AND 750.459.**

14 (ix) A violation of section 520c, 520e, or 520g(2) of the  
15 Michigan penal code, 1931 PA 328, MCL 750.520c, 750.520e, and  
16 750.520g, committed against an individual 13 years of age or older  
17 but less than 18 years of age.

18 (x) A violation of section 520c committed against an  
19 individual 18 years of age or older.

20 (xi) An attempt or conspiracy to commit an offense described in  
21 subparagraphs (i) to (x).

22 (xii) An offense substantially similar to an offense described  
23 in subparagraphs (i) to (xi) under a law of the United States that is  
24 specifically enumerated in 42 USC 16911, under a law of any state  
25 or any country, or under tribal or military law.

26 (v) "Tier III offender" means either of the following:

27 (i) A tier II offender subsequently convicted of a tier I or II

1 offense.

2 (ii) An individual convicted of a tier III offense.

3 (w) "Tier III offense" means 1 or more of the following:

4 (i) A violation of section 338, 338a, or 338b of the Michigan  
5 penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b,  
6 committed against an individual less than 13 years of age.

7 (ii) A violation of section 349 of the Michigan penal code,  
8 1931 PA 328, MCL 750.349, committed against a minor.

9 (iii) A violation of section 350 of the Michigan penal code,  
10 1931 PA 328, MCL 750.350.

11 (iv) A VIOLATION OF SECTION 452, 455, 456, OR 459 OF THE  
12 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.452, 750.455, 750.456,  
13 AND 750.459, INVOLVING A MINOR.

14 (v) A VIOLATION OF CHAPTER LXVIIA OF THE MICHIGAN PENAL CODE,  
15 1931 PA 328, MCL 750.462A TO 750.462J, IN WHICH THE PERSON ENTICED,  
16 SOLICITED, OR REQUIRED THE VICTIM OF THAT VIOLATION TO ENGAGE IN  
17 CONDUCT PROSCRIBED UNDER CHAPTER LXVII OF THE MICHIGAN PENAL CODE,  
18 1931 PA 328, MCL 750.448 TO 750.462, OR TO ENGAGE IN ANY OTHER  
19 CONDUCT CONSTITUTING AN OFFENSE FOR WHICH AN INDIVIDUAL WOULD BE  
20 REQUIRED TO REGISTER UNDER THIS ACT.

21 (vi) ~~(iv)~~—A violation of section 520b, 520d, or 520g(1) of the  
22 Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520d, and  
23 750.520g. This subparagraph does not apply if the court determines  
24 that the victim consented to the conduct constituting the  
25 violation, that the victim was at least 13 years of age but less  
26 than 16 years of age at the time of the offense, and that the  
27 individual is not more than 4 years older than the victim.

1       (vii) ~~(v)~~—A violation of section 520c or 520g(2) of the Michigan  
2 penal code, 1931 PA 328, MCL 750.520c and 750.520g, committed  
3 against an individual less than 13 years of age.

4       (viii) ~~(vi)~~—A violation of section 520e of the Michigan penal  
5 code, 1931 PA 328, MCL 750.520e, committed by an individual 17  
6 years of age or older against an individual less than 13 years of  
7 age.

8       (ix) ~~(vii)~~—An attempt or conspiracy to commit an offense  
9 described in subparagraphs (i) to ~~(vi)~~ **(viii)**.

10       (x) ~~(viii)~~—An offense substantially similar to an offense  
11 described in subparagraphs (i) to ~~(vii)~~ **(ix)** under a law of the United  
12 States that is specifically enumerated in 42 USC 16911, under a law  
13 of any state or any country, or under tribal or military law.

14       (x) "Vehicle" means that term as defined in section 79 of the  
15 Michigan vehicle code, 1949 PA 300, MCL 257.79.

16       (y) "Vessel" means that term as defined in section 44501 of  
17 the natural resources and environmental protection act, 1994 PA  
18 451, MCL 324.44501.