

SUBSTITUTE FOR
HOUSE BILL NO. 5658

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 27b of chapter VIII (MCL 768.27b), as added by
2006 PA 78.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER VIII

2

Sec. 27b. (1) Except as provided in subsection (4), in a
criminal action in which the defendant is accused of an offense
involving domestic violence **OR SEXUAL ASSAULT**, evidence of the
defendant's commission of other acts of domestic violence **OR SEXUAL**
ASSAULT is admissible for any purpose for which it is relevant, if
it is not otherwise excluded under Michigan rule of evidence 403.

8

(2) If the prosecuting attorney intends to offer evidence
under this section, the prosecuting attorney shall disclose the

9

evidence, including the statements of witnesses or a summary of the substance of any testimony that is expected to be offered, to the defendant not less than 15 days before the scheduled date of trial or at a later time as allowed by the court for good cause shown.

(3) This section does not limit or preclude the admission or consideration of evidence under any other statute, **INCLUDING, BUT NOT LIMITED TO, UNDER SECTION 27A**, rule of evidence, or case law.

(4) Evidence of an act occurring more than 10 years before the charged offense is inadmissible under this section ~~unless the court determines that admitting this evidence is in the interest of justice.~~ **1 OR MORE OF THE FOLLOWING APPLY:**

(A) THE ACT WAS A SEXUAL ASSAULT THAT WAS REPORTED TO LAW ENFORCEMENT WITHIN 5 YEARS OF THE DATE OF THE SEXUAL ASSAULT.

(B) THE ACT WAS A SEXUAL ASSAULT AND A SEXUAL ASSAULT EVIDENCE KIT WAS COLLECTED.

(C) THE ACT WAS A SEXUAL ASSAULT AND THE TESTING OF EVIDENCE CONNECTED TO THE ASSAULT RESULTED IN A DNA IDENTIFICATION PROFILE THAT IS ASSOCIATED WITH THE DEFENDANT.

(D) ADMITTING THE EVIDENCE IS IN THE INTEREST OF JUSTICE.

(5) THE AMENDATORY ACT THAT AMENDED THIS SUBSECTION DOES NOT ALTER OR IN ANY MANNER AFFECT THE STATUTES OF LIMITATION FOR THE OFFENSES DESCRIBED IN THIS SECTION.

(6) ~~(5)~~As used in this section:

(a) "Domestic violence" or "offense involving domestic violence" means an occurrence of 1 or more of the following acts by a person that is not an act of self-defense:

(i) Causing or attempting to cause physical or mental harm to

1 a family or household member.

2 (ii) Placing a family or household member in fear of physical
3 or mental harm.

4 (iii) Causing or attempting to cause a family or household
5 member to engage in involuntary sexual activity by force, threat of
6 force, or duress.

7 (iv) Engaging in activity toward a family or household member
8 that would cause a reasonable person to feel terrorized,
9 frightened, intimidated, threatened, harassed, or molested.

10 (b) "Family or household member" means any of the following:

11 (i) A spouse or former spouse.

12 (ii) An individual with whom the person resides or has
13 resided.

14 (iii) An individual with whom the person has or has had a
15 child in common.

16 (iv) An individual with whom the person has or has had a
17 dating relationship. As used in this subparagraph, "dating
18 relationship" means frequent, intimate associations primarily
19 characterized by the expectation of affectional involvement. This
20 term does not include a casual relationship or an ordinary
21 fraternization between 2 individuals in a business or social
22 context.

23 (C) **"SEXUAL ASSAULT" MEANS A LISTED OFFENSE AS THAT TERM IS**
24 **DEFINED IN SECTION 2 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA**
25 **295, MCL 28.722.**

26 (7) ~~(6)~~ This section applies to trials and evidentiary
27 hearings commenced or in progress on or after May 1, 2006.

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