

SENATE BILL NO. 1260

December 18, 2020, Introduced by Senators RUNESTAD, THEIS, BARRETT, DALEY, JOHNSON, LASATA, VICTORY and OUTMAN and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 10a, 462f, and 539j (MCL 750.10a, 750.462f,
and 750.539j), section 462f as amended by 2016 PA 338 and section
539j as added by 2004 PA 155, and by adding sections 145h, 158a,
338c, 350b, 455a, and 520p.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10a. (1) ~~The~~ **As used in this act, the** term "sexually
2 delinquent person" ~~when used in this act shall mean~~ **means** any

1 person whose sexual behavior is characterized by repetitive or
2 compulsive acts which indicate a disregard of consequences or the
3 recognized rights of others, or by the use of force ~~upon~~ on another
4 person in attempting sex relations of either a heterosexual or
5 homosexual nature, or by the commission of sexual aggressions
6 against children under the age of 16.

7 (2) As part of its adjudication order, order of disposition,
8 judgment of sentence, or order of probation a court may order that
9 a person who is convicted as or, a juvenile who is adjudicated as a
10 sexually delinquent person upon his or her release from
11 incarceration, if applicable, or as part of or upon the completion
12 of any period of supervised release not engage in certain
13 activities.

14 (3) The court's order under subsection (2) may include, but
15 need not be limited to, prohibiting a person described under
16 subsection (2) from any of the following:

17 (a) Working within 1,000 feet or less from school property.

18 (b) Loitering within 1,000 feet or less from school property.

19 (c) Residing within 1,000 feet or less from school property.

20 Sec. 145h. (1) As part of its adjudication order, order of
21 disposition, judgment of sentence, or order of probation a court
22 may order that a person who is convicted of or, a juvenile who is
23 adjudicated for a violation of section 145a, 145b, 145c, or
24 145d(1)(a), upon his or her release from incarceration, if
25 applicable, or as part of or upon the completion of any period of
26 supervised release not engage in certain activities.

27 (2) The court's order under subsection (1) may include, but
28 need not be limited to, prohibiting a person described under
29 subsection (1) from any of the following:

1 (a) Working within 1,000 feet or less from school property.

2 (b) Loitering within 1,000 feet or less from school property.

3 (c) Residing within 1,000 feet or less from school property.

4 Sec. 158a. (1) As part of its adjudication order, order of
5 disposition, judgment of sentence, or order of probation a court
6 may order that a person who is convicted of or, a juvenile who is
7 adjudicated for a violation of section 158, upon his or her release
8 from incarceration, if applicable, or as part of or upon the
9 completion of any period of supervised release not engage in
10 certain activities.

11 (2) The court's order under subsection (1) may include, but
12 need not be limited to, prohibiting a person described under
13 subsection (1) from any of the following:

14 (a) Working within 1,000 feet or less from school property.

15 (b) Loitering within 1,000 feet or less from school property.

16 (c) Residing within 1,000 feet or less from school property.

17 Sec. 338c. (1) As part of its adjudication order, order of
18 disposition, judgment of sentence, or order of probation a court
19 may order that a person who is convicted of or, a juvenile who is
20 adjudicated for a violation of section 335a(2)(b), 338, 338a, or
21 338b, upon his or her release from incarceration, if applicable, or
22 as part of or upon the completion of any period of supervised
23 release not engage in certain activities.

24 (2) The court's order under subsection (1) may include, but
25 need not be limited to, prohibiting a person described under
26 subsection (1) from any of the following:

27 (a) Working within 1,000 feet or less from school property.

28 (b) Loitering within 1,000 feet or less from school property.

29 (c) Residing within 1,000 feet or less from school property.

1 Sec. 350b. (1) As part of its adjudication order, order of
2 disposition, judgment of sentence, or order of probation a court
3 may order that a person who is convicted of or, a juvenile who is
4 adjudicated for a violation of section 349b or 350, upon his or her
5 release from incarceration, if applicable, or as part of or upon
6 the completion of any period of supervised release not engage in
7 certain activities.

8 (2) The court's order under subsection (1) may include, but
9 need not be limited to, prohibiting a person described under
10 subsection (1) from any of the following:

11 (a) Working within 1,000 feet or less from school property.

12 (b) Loitering within 1,000 feet or less from school property.

13 (c) Residing within 1,000 feet or less from school property.

14 Sec. 455a. (1) As part of its adjudication order, order of
15 disposition, judgment of sentence, or order of probation a court
16 may order that a person who is convicted of or, a juvenile who is
17 adjudicated for a violation of section 448, 449a(2), or 455, upon
18 his or her release from incarceration, if applicable, or as part of
19 or upon the completion of any period of supervised release not
20 engage in certain activities.

21 (2) The court's order under subsection (1) may include, but
22 need not be limited to, prohibiting a person described under
23 subsection (1) from any of the following:

24 (a) Working within 1,000 feet or less from school property.

25 (b) Loitering within 1,000 feet or less from school property.

26 (c) Residing within 1,000 feet or less from school property.

27 Sec. 462f. (1) Except as otherwise provided in this section, a
28 person who violates section 462b, 462c, or 462d is guilty of a
29 crime as follows:

1 (a) Except as provided in subdivisions (b), (c), and (d), the
2 person is guilty of a felony punishable by imprisonment for not
3 more than 10 years or a fine of not more than \$10,000.00, or both.

4 (b) If the violation results in bodily injury to an individual
5 or results in an individual being engaged in commercial sexual
6 activity, the person is guilty of a felony punishable by
7 imprisonment for not more than 15 years or a fine of not more than
8 \$15,000.00, or both.

9 (c) If the violation results in serious bodily injury to an
10 individual, the person is guilty of a felony punishable by
11 imprisonment for not more than 20 years or a fine of not more than
12 \$20,000.00, or both.

13 (d) If the violation involves kidnapping or attempted
14 kidnapping, criminal sexual conduct in the first degree or
15 attempted criminal sexual conduct in the first degree, or an
16 attempt to kill or the death of an individual, the person is guilty
17 of a felony punishable by imprisonment for life or any term of
18 years or a fine of not more than \$50,000.00, or both.

19 (2) Except as otherwise provided in this section, a person who
20 violates section 462e is guilty of a felony punishable by
21 imprisonment for not more than 20 years or a fine of not more than
22 \$20,000.00, or both.

23 (3) A person who attempts, conspires, or solicits another to
24 violate this chapter is subject to the same penalty as a person who
25 commits a violation of this chapter.

26 (4) This section does not prohibit a person from being charged
27 with, convicted of, or punished for any other violation of law
28 arising out of the same transaction as the violation of this
29 section.

1 (5) The court may order a term of imprisonment imposed for
2 violating this section to be served consecutively to a term of
3 imprisonment imposed for the commission of any other crime,
4 including any other violation of law arising out of the same
5 transaction as the violation of this section.

6 (6) In addition to any mandatory restitution applicable under
7 section 16 of the William Van Regenmorter crime victim's rights
8 act, 1985 PA 87, MCL 780.766, the court may order a person
9 convicted of violating this section to pay restitution to the
10 victim in the manner provided in section 16b of the William Van
11 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.766b,
12 and to reimburse any governmental entity for its expenses incurred
13 in relation to the violation in the same manner that expenses may
14 be ordered to be reimbursed under section 1f of chapter IX of the
15 code of criminal procedure, 1927 PA 175, MCL 769.1f.

16 **(7) As part of its adjudication order, order of disposition,**
17 **judgment of sentence, or order of probation a court may order that**
18 **a person who is convicted of or, a juvenile who is adjudicated for**
19 **a violation of section 462e, upon his or her release from**
20 **incarceration, if applicable, or as part of or upon the completion**
21 **of any period of supervised release not engage in certain**
22 **activities.**

23 (8) The court's order under subsection (7) may include, but
24 need not be limited to, prohibiting a person described under
25 subsection (7) from any of the following:

26 (a) Working within 1,000 feet or less from school property.

27 (b) Loitering within 1,000 feet or less from school property.

28 (c) Residing within 1,000 feet or less from school property.

29 Sec. 520p. (1) As part of its adjudication order, order of

1 disposition, judgment of sentence, or order of probation a court
2 may order that a person who is convicted of or, a juvenile who is
3 adjudicated for a violation of section 520b, 520c, 520d, 520e, or
4 520g, upon his or her release from incarceration, if applicable, or
5 as part of or upon the completion of any period of supervised
6 release not engage in certain activities.

7 (2) The court's order under subsection (1) may include, but
8 need not be limited to, prohibiting a person described under
9 subsection (1) from any of the following:

10 (a) Working within 1,000 feet or less from school property.

11 (b) Loitering within 1,000 feet or less from school property.

12 (c) Residing within 1,000 feet or less from school property.

13 Sec. 539j. (1) A person shall not do any of the following:

14 (a) Surveil another individual who is clad only in his or her
15 undergarments, the unclad genitalia or buttocks of another
16 individual, or the unclad breasts of a female individual under
17 circumstances in which the individual would have a reasonable
18 expectation of privacy.

19 (b) Photograph, or otherwise capture or record, the visual
20 image of the undergarments worn by another individual, the unclad
21 genitalia or buttocks of another individual, or the unclad breasts
22 of a female individual under circumstances in which the individual
23 would have a reasonable expectation of privacy.

24 (c) Distribute, disseminate, or transmit for access by any
25 other person a recording, photograph, or visual image the person
26 knows or has reason to know was obtained in violation of this
27 section.

28 (2) A person who violates or attempts to violate this section
29 is guilty of a crime as follows:

1 (a) For a violation or attempted violation of subsection
2 (1)(a):

3 (i) Except as provided in subparagraph (ii), the person is
4 guilty of a felony punishable by imprisonment for not more than 2
5 years or a fine of not more than \$2,000.00, or both.

6 (ii) If the person was previously convicted of violating or
7 attempting to violate subsection (1)(a), the person is guilty of a
8 felony punishable by imprisonment for not more than 5 years or a
9 fine of not more than \$5,000.00, or both.

10 (b) For a violation or attempted violation of subsection
11 (1)(b) or (c), the person is guilty of a felony punishable by
12 imprisonment for not more than 5 years or a fine of not more than
13 \$5,000.00, or both.

14 (3) This section does not prohibit a person from being charged
15 with, convicted of, or punished for any other violation of law
16 committed by that person while violating or attempting to violate
17 subsection (1)(a) to (c).

18 (4) This section does not prohibit security monitoring in a
19 residence if conducted by or at the direction of the owner or
20 principal occupant of that residence unless conducted for a lewd or
21 lascivious purpose.

22 (5) This section does not apply to a peace officer of this
23 state or of the federal government, or the officer's agent, while
24 in the performance of the officer's duties.

25 **(6) As part of its adjudication order, order of disposition,**
26 **judgment of sentence, or order of probation a court may order that**
27 **a person who is convicted of or, a juvenile who is adjudicated for**
28 **a violation of this section, upon his or her release from**
29 **incarceration, if applicable, or as part of or upon the completion**

1 of any period of supervised release not engage in certain
2 activities.

3 (7) The court's order under subsection (6) may include, but
4 need not be limited to, prohibiting a person described under
5 subsection (6) from any of the following:

6 (a) Working within 1,000 feet or less from school property.

7 (b) Loitering within 1,000 feet or less from school property.

8 (c) Residing within 1,000 feet or less from school property.

9 (8) ~~(6)~~ As used in this section, "surveil" means to subject an
10 individual to surveillance as that term is defined in section 539a.