

HOUSE BILL NO. 4520

May 04, 2023, Introduced by Reps. Mueller and Breen and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 81 and 81a (MCL 750.81 and 750.81a), section 81 as amended by 2016 PA 87 and section 81a as amended by 2012 PA 366.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81. (1) Except as otherwise provided in this section, a
2 person who assaults or assaults and batters an individual, if no
3 other punishment is prescribed by law, is guilty of a misdemeanor
4 punishable by imprisonment for not more than 93 days or a fine of
5 not more than \$500.00, or both. **If the victim of a violation under**

1 this subsection is a health professional or medical volunteer and
2 the violation occurs while the victim is performing the victim's
3 duties as a health professional or medical volunteer, the person is
4 guilty of a misdemeanor punishable by imprisonment for not more
5 than 93 days or a fine of not more than \$1,000.00, or both. The
6 enhanced fine under this subsection does not apply if the defendant
7 is a patient who is receiving treatment from the victim.

8 (2) Except as provided in subsection (3), (4), or (5), an
9 individual who assaults or assaults and batters ~~his or her~~ **the**
10 **individual's** spouse or former spouse, an individual with whom ~~he or~~
11 ~~she~~ **the individual** has or has had a dating relationship, an
12 individual with whom ~~he or she~~ **the individual** has had a child in
13 common, or a resident or former resident of ~~his or her~~ **the**
14 **individual's** household, is guilty of a misdemeanor punishable by
15 imprisonment for not more than 93 days or a fine of not more than
16 \$500.00, or both.

17 (3) An individual who assaults or assaults and batters an
18 individual who is pregnant and who knows the individual is pregnant
19 is guilty of a misdemeanor punishable by imprisonment for not more
20 than 93 days or a fine of not more than \$500.00, or both.

21 (4) An individual who commits an assault or an assault and
22 battery in violation of subsection (2) or (3), and who has
23 previously been convicted of assaulting or assaulting and battering
24 an individual described in either subsection (2) or subsection (3)
25 under any of the following, is guilty of a misdemeanor punishable
26 by imprisonment for not more than 1 year or a fine of not more than
27 \$1,000.00, or both:

28 (a) This section or an ordinance of a political subdivision of
29 this state substantially corresponding to this section.

1 (b) Section 81a, 82, 83, 84, or 86.

2 (c) A law of another state or an ordinance of a political
3 subdivision of another state substantially corresponding to this
4 section or section 81a, 82, 83, 84, or 86.

5 (5) An individual who commits an assault or an assault and
6 battery in violation of subsection (2) or (3), and who has 2 or
7 more previous convictions for assaulting or assaulting and
8 battering an individual described in either subsection (2) or
9 subsection (3) under any of the following, is guilty of a felony
10 punishable by imprisonment for not more than 5 years or a fine of
11 not more than \$5,000.00, or both:

12 (a) This section or an ordinance of a political subdivision of
13 this state substantially corresponding to this section.

14 (b) Section 81a, 82, 83, 84, or 86.

15 (c) A law of another state or an ordinance of a political
16 subdivision of another state substantially corresponding to this
17 section or section 81a, 82, 83, 84, or 86.

18 (6) This section does not apply to an individual using
19 necessary reasonable physical force in compliance with section 1312
20 of the revised school code, 1976 PA 451, MCL 380.1312.

21 **(7) The operator of a health facility licensed under article**
22 **17 of the public health code, 1978 PA 368, MCL 333.20101 to**
23 **333.22260, shall post a sign in the health facility in a prominent**
24 **and visible location that provides that a person, other than a**
25 **patient receiving treatment, who assaults a health professional or**
26 **medical volunteer in violation of this section is subject to the**
27 **enhanced fine provided for in this section and that a patient**
28 **receiving treatment who assaults a health professional or medical**
29 **volunteer may still be subject to prosecution under this section.**

1 (8) ~~(7)~~—As used in this section: ~~,"dating~~

2 (a) **"Dating relationship"** means frequent, intimate
3 associations primarily characterized by the expectation of
4 affectional involvement. This term does not include a casual
5 relationship or an ordinary fraternization between 2 individuals in
6 a business or social context.

7 (b) **"Health professional"** means an individual who is employed
8 by a hospital, health system, or health care provider, whether
9 operated by a governmental unit or a private entity, and whose
10 duties within the scope of that employment involve the provision of
11 direct patient care and require licensure, certification, or other
12 regulation under the public health code, 1978 PA 368, MCL 333.1101
13 to 333.25211, or who is providing indirect patient care under the
14 direction of a hospital, health system, or health care provider.

15 (c) **"Medical volunteer"** means an individual who is
16 volunteering at a hospital, in a health system, or with a health
17 care provider, whether operated by a governmental unit or a private
18 entity, and whose duties as a volunteer involve the provision of
19 direct patient care, or who is providing indirect patient care
20 under the direction of a hospital, health system, or health care
21 provider.

22 Sec. 81a. (1) Except as otherwise provided in this section, a
23 person who assaults an individual without a weapon and inflicts
24 serious or aggravated injury upon that individual without intending
25 to commit murder or to inflict great bodily harm less than murder
26 is guilty of a misdemeanor punishable by imprisonment for not more
27 than 1 year or a fine of not more than \$1,000.00, or both. **If the**
28 **victim of a violation under this subsection is a health**
29 **professional or medical volunteer and the violation occurs while**

1 the victim is performing the victim's duties as a health
 2 professional or medical volunteer, the person is guilty of a
 3 misdemeanor punishable by imprisonment for not more than 1 year or
 4 a fine of not more than \$2,000.00, or both. The enhanced fine under
 5 this subsection does not apply if the defendant is a patient who is
 6 receiving treatment from the victim.

7 (2) Except as provided in subsection (3), an individual who
 8 assaults ~~his or her~~ **the individual's** spouse or former spouse, an
 9 individual with whom ~~he or she~~ **the individual** has or has had a
 10 dating relationship, an individual with whom ~~he or she~~ **the**
 11 **individual** has had a child in common, or a resident or former
 12 resident of the same household without a weapon and inflicts
 13 serious or aggravated injury upon that individual without intending
 14 to commit murder or to inflict great bodily harm less than murder
 15 is guilty of a misdemeanor punishable by imprisonment for not more
 16 than 1 year or a fine of not more than \$1,000.00, or both.

17 (3) An individual who commits an assault and battery in
 18 violation of subsection (2), and who has 1 or more previous
 19 convictions for assaulting or assaulting and battering ~~his or her~~
 20 **the individual's** spouse or former spouse, an individual with whom
 21 ~~he or she~~ **the individual** has or has had a dating relationship, an
 22 individual with whom ~~he or she~~ **the individual** has had a child in
 23 common, or a resident or former resident of the same household, in
 24 violation of any of the following, is guilty of a felony punishable
 25 by imprisonment for not more than 5 years or a fine of not more
 26 than \$5,000.00, or both:

27 (a) This section or an ordinance of a political subdivision of
 28 this state substantially corresponding to this section.

29 (b) Section 81, 82, 83, 84, or 86.

1 (c) A law of another state or an ordinance of a political
2 subdivision of another state substantially corresponding to this
3 section or section 81, 82, 83, 84, or 86.

4 (4) The operator of a health facility licensed under article
5 17 of the public health code, 1978 PA 368, MCL 333.20101 to
6 333.22260, shall post a sign in the health facility in a prominent
7 and visible location that provides that a person, other than a
8 patient receiving treatment, who assaults a health professional or
9 medical volunteer in violation of this section is subject to the
10 enhanced fine provided for in this section and that a patient
11 receiving treatment who assaults a health professional or medical
12 volunteer may still be subject to prosecution under this section.

13 (5) ~~(4)~~As used in this section: ~~,"dating~~

14 (a) "Dating relationship" means frequent, intimate
15 associations primarily characterized by the expectation of
16 affectional involvement. This term does not include a casual
17 relationship or an ordinary fraternization between 2 individuals in
18 a business or social context.

19 (b) "Health professional" means an individual who is employed
20 by a hospital, health system, or health care provider, whether
21 operated by a governmental unit or a private entity, and whose
22 duties within the scope of that employment involve the provision of
23 direct patient care and require licensure, certification, or other
24 regulation under the public health code, 1978 PA 368, MCL 333.1101
25 to 333.25211, or who is providing indirect patient care under the
26 direction of a hospital, health system, or health care provider.

27 (c) "Medical volunteer" means an individual who is
28 volunteering at a hospital, in a health system, or with a health
29 care provider, whether operated by a governmental unit or a private

1 entity, and whose duties as a volunteer involve the provision of
2 direct patient care, or who is providing indirect patient care
3 under the direction of a hospital, health system, or health care
4 provider.

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

7 Enacting section 2. This amendatory act does not take effect
8 unless Senate Bill No. _____ or House Bill No. 4521 (request no.
9 02879'23) of the 102nd Legislature is enacted into law.