

SENATE BILL NO. 236

March 23, 2023, Introduced by Senators IRWIN, BAYER, GEISS, SANTANA, POLEHANKI, CHANG, MCBROOM, JOHNSON and SINGH and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 520a (MCL 750.520a), as amended by 2014 PA 64.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 520a. As used in this chapter:
- 2 (a) "Actor" means a person accused of criminal sexual conduct.
- 3 (b) "Developmental disability" means an impairment of general
- 4 intellectual functioning or adaptive behavior that meets all of the
- 5 following criteria:
- 6 (i) It originated before the person became 18 years of age.

1 (ii) It has continued since its origination or can be expected
2 to continue indefinitely.

3 (iii) It constitutes a substantial burden to the impaired
4 person's ability to perform in society.

5 (iv) It is attributable to 1 or more of the following:

6 (A) Intellectual disability, cerebral palsy, epilepsy, or
7 autism.

8 (B) Any other condition of a person that produces a similar
9 impairment or requires treatment and services similar to those
10 required for a person described in this subdivision.

11 (c) "Electronic monitoring" means that term as defined in
12 section 85 of the corrections code of 1953, 1953 PA 232, MCL
13 791.285.

14 (d) "Intellectual disability" means that term as defined in
15 section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

16 (e) "Intermediate school district" means a corporate body
17 established under part 7 of the revised school code, 1976 PA 451,
18 MCL 380.601 to 380.705.

19 (f) "Intimate parts" includes the primary genital area, groin,
20 inner thigh, buttock, or breast of a human being.

21 (g) "Mental health professional" means that term as defined in
22 section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

23 (h) "Mental illness" means a substantial disorder of thought
24 or mood that significantly impairs judgment, behavior, capacity to
25 recognize reality, or ability to cope with the ordinary demands of
26 life.

27 (i) "Mentally disabled" means that a person has a mental
28 illness, is intellectually disabled, or has a developmental
29 disability.

1 (j) "Mentally incapable" means that a person suffers from a
2 mental disease or defect that renders that person temporarily or
3 permanently incapable of appraising the nature of his or her
4 conduct.

5 (k) "Mentally incapacitated" means that a person is rendered
6 temporarily incapable of appraising or controlling ~~his or her~~ **the**
7 **person's** conduct due to the influence of a narcotic, anesthetic, or
8 other substance, ~~administered to that person without his or her~~
9 ~~consent,~~ or due to any ~~other~~ act committed upon that person without
10 ~~his or her~~ **the person's** consent.

11 (l) "Nonpublic school" means a private, denominational, or
12 parochial elementary or secondary school.

13 (m) "Physically helpless" means that a person is unconscious,
14 asleep, or for any other reason is physically unable to communicate
15 unwillingness to an act.

16 (n) "Personal injury" means bodily injury, disfigurement,
17 mental anguish, chronic pain, pregnancy, disease, or loss or
18 impairment of a sexual or reproductive organ.

19 (o) "Public school" means a public elementary or secondary
20 educational entity or agency that is established under the revised
21 school code, 1976 PA 451, MCL 380.1 to 380.1852.

22 (p) "School district" means a general powers school district
23 organized under the revised school code, 1976 PA 451, MCL 380.1 to
24 380.1852.

25 (q) "Sexual contact" includes the intentional touching of the
26 victim's or actor's intimate parts or the intentional touching of
27 the clothing covering the immediate area of the victim's or actor's
28 intimate parts, if that intentional touching can reasonably be
29 construed as being for the purpose of sexual arousal or

1 gratification, done for a sexual purpose, or in a sexual manner
2 for:

3 (i) Revenge.

4 (ii) To inflict humiliation.

5 (iii) Out of anger.

6 (r) "Sexual penetration" means sexual intercourse,
7 cunnilingus, fellatio, anal intercourse, or any other intrusion,
8 however slight, of any part of a person's body or of any object
9 into the genital or anal openings of another person's body, but
10 emission of semen is not required.

11 (s) "Victim" means the person alleging to have been subjected
12 to criminal sexual conduct.

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