

# SENATE BILL NO. 1118

November 14, 2024, Introduced by Senators SHINK, MCMORROW and CAVANAGH 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 2023 PA 65,  
and by adding section 520p.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1       Sec. 520a. As used in this chapter:
- 2       (a) "Actor" means ~~a person~~ **an individual** accused of criminal
- 3 sexual conduct.
- 4       (b) "Developmental disability" means an impairment of general

1 intellectual functioning or adaptive behavior that meets all of the  
2 following criteria:

3 (i) It originated before the ~~person~~**individual** became 18 years  
4 of age.

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

7 (iii) It constitutes a substantial burden to the impaired  
8 ~~person's~~**individual's** ability to perform in society.

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

10 (A) Intellectual disability, cerebral palsy, epilepsy, or  
11 autism.

12 (B) Any other condition of a ~~person~~**an individual** that  
13 produces a similar impairment or requires treatment and services  
14 similar to those required for a ~~person~~**an individual** described in  
15 this subdivision.

16 (c) "Electronic monitoring" means that term as defined in  
17 section 85 of the corrections code of 1953, 1953 PA 232, MCL  
18 791.285.

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

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

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

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

28 (h) "Mental illness" means a substantial disorder of thought  
29 or mood that significantly impairs judgment, behavior, capacity to

1 recognize reality, or ability to cope with the ordinary demands of  
2 life.

3 (i) "Mentally disabled" means that ~~a person~~**an individual** has  
4 a mental illness, is intellectually disabled, or has a  
5 developmental disability.

6 (j) "Mentally incapable" means that ~~a person~~**an individual**  
7 suffers from a mental disease or defect that renders that ~~person~~  
8 **individual** temporarily or permanently incapable of appraising the  
9 nature of ~~his or her~~**the individual's** conduct.

10 (k) "Mentally incapacitated" means that ~~a person~~**an individual**  
11 is rendered temporarily incapable of appraising or controlling the  
12 ~~person's~~**individual's** conduct due to the influence of a narcotic,  
13 anesthetic, alcohol, or other substance, or due to any act  
14 committed upon that ~~person~~**individual** without the ~~person's~~  
15 **individual's** consent.

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

18 (m) "Physically helpless" means that ~~a person~~**an individual** is  
19 unconscious, asleep, or for any other reason is physically unable  
20 to communicate unwillingness to an act.

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

24 (o) "Prophylactic" means a thin rubber sheath worn on an  
25 **individual's penis during sexual intercourse as a contraceptive or**  
26 **as protection against infection.**

27 (p) ~~(e)~~—"Public school" means a public elementary or secondary  
28 educational entity or agency that is established under the revised  
29 school code, 1976 PA 451, MCL 380.1 to 380.1852.

1        **(q)** ~~(p)~~ "School district" means a general powers school  
 2 district organized under the revised school code, 1976 PA 451, MCL  
 3 380.1 to 380.1852.

4        **(r)** ~~(q)~~ "Sexual contact" includes the intentional touching of  
 5 the victim's or actor's intimate parts or the intentional touching  
 6 of the clothing covering the immediate area of the victim's or  
 7 actor's intimate parts, if that intentional touching can reasonably  
 8 be construed as being for the purpose of sexual arousal or  
 9 gratification, done for a sexual purpose, or in a sexual manner  
 10 for:

11        (i) Revenge.

12        (ii) To inflict humiliation.

13        (iii) Out of anger.

14        **(s)** ~~(r)~~ "Sexual penetration" means sexual intercourse,  
 15 cunnilingus, fellatio, anal intercourse, or any other intrusion,  
 16 however slight, of any part of ~~a person's~~ **an individual's** body or  
 17 of any object into the genital or anal openings of another ~~person's~~  
 18 **individual's** body, but emission of semen is not required.

19        **(t)** ~~(s)~~ "Victim" means the ~~person~~ **individual** alleging to have  
 20 been subjected to criminal sexual conduct.

21        **Sec. 520p. (1) Except as provided in subsection (2), an**  
 22 **individual who while engaging in sexual contact or sexual**  
 23 **penetration with another individual who consented to the sexual**  
 24 **contact or sexual penetration with the use of a prophylactic**  
 25 **knowingly removes or damages the prophylactic without the consent**  
 26 **of the other individual is guilty of a misdemeanor punishable by**  
 27 **imprisonment for not more than 90 days or a fine of not more than**  
 28 **\$10,000.00, or both.**

29        **(2) An individual who commits a second or subsequent violation**

1 under subsection (1) is guilty of a misdemeanor punishable by  
2 imprisonment for not more than 1 year.