

Act No. 65  
Public Acts of 2023  
Approved by the Governor  
July 11, 2023  
Filed with the Secretary of State  
July 12, 2023  
EFFECTIVE DATE: October 10, 2023

**STATE OF MICHIGAN  
102ND LEGISLATURE  
REGULAR SESSION OF 2023**

Introduced by Senators Irwin, Bayer, Geiss, Santana, Polehanki, Chang, McBroom, Johnson and Singh

## **ENROLLED SENATE BILL No. 236**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at criminal trials; to provide for liability for damages; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 520a (MCL 750.520a), as amended by 2014 PA 64.

*The People of the State of Michigan enact:*

Sec. 520a. As used in this chapter:

- (a) “Actor” means a person accused of criminal sexual conduct.
- (b) “Developmental disability” means an impairment of general intellectual functioning or adaptive behavior that meets all of the following criteria:
  - (i) It originated before the person became 18 years of age.
  - (ii) It has continued since its origination or can be expected to continue indefinitely.
  - (iii) It constitutes a substantial burden to the impaired person’s ability to perform in society.
  - (iv) It is attributable to 1 or more of the following:
    - (A) Intellectual disability, cerebral palsy, epilepsy, or autism.
    - (B) Any other condition of a person that produces a similar impairment or requires treatment and services similar to those required for a person described in this subdivision.
- (c) “Electronic monitoring” means that term as defined in section 85 of the corrections code of 1953, 1953 PA 232, MCL 791.285.
- (d) “Intellectual disability” means that term as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.
- (e) “Intermediate school district” means a corporate body established under part 7 of the revised school code, 1976 PA 451, MCL 380.601 to 380.705.
- (f) “Intimate parts” includes the primary genital area, groin, inner thigh, buttock, or breast of a human being.
- (g) “Mental health professional” means that term as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.
- (h) “Mental illness” means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.
- (i) “Mentally disabled” means that a person has a mental illness, is intellectually disabled, or has a developmental disability.

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

(k) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling the person's conduct due to the influence of a narcotic, anesthetic, alcohol, or other substance, or due to any act committed upon that person without the person's consent.

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

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

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

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

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

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

(i) Revenge.

(ii) To inflict humiliation.

(iii) Out of anger.

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

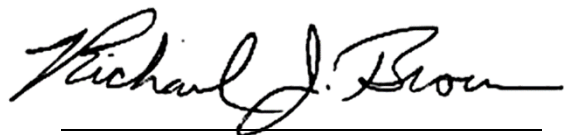
(s) "Victim" means the person alleging to have been subjected to criminal sexual conduct.

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved \_\_\_\_\_

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Governor