

THE MICHIGAN PENAL CODE (EXCERPT)

Act 328 of 1931

CHAPTER XLVIII

INDECENCY AND IMMORALITY

750.335 Lewd and lascivious cohabitation and gross lewdness.

Sec. 335. Any individual, married or unmarried, who is guilty of open and gross lewdness and lascivious behavior, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00. No prosecution may be commenced under this section after 1 year from the time the offense was committed.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.335;—Am. 1952, Act 73, Eff. Sept. 18, 1952;—Am. 2002, Act 672, Eff. Mar. 31, 2003;—Am. 2023, Act 78, Imd. Eff. July 12, 2023.

Former law: See sections 6 and 7 of Ch. 158 of R.S. 1846, being CL 1857, §§ 5861 and 5862; CL 1871, §§ 7696 and 7697; How., §§ 9282 and 9283; CL 1897, §§ 11693 and 11694; CL 1915, §§ 15467 and 15468; and CL 1929, §§ 16822 and 16823.

750.335a Indecent exposure; violation; penalty; mother's breastfeeding or expressing milk exempt.

Sec. 335a. (1) A person shall not knowingly make any open or indecent exposure of his or her person or of the person of another.

(2) A person who violates subsection (1) is guilty of a crime, as follows:

(a) Except as provided in subdivision (b) or (c), the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year, or a fine of not more than \$1,000.00, or both.

(b) If the person was fondling his or her genitals, pubic area, buttocks, or, if the person is female, breasts, while violating subsection (1), the person is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

(c) If the person was at the time of the violation a sexually delinquent person, the violation is punishable by imprisonment for an indeterminate term, the minimum of which is 1 day and the maximum of which is life.

(3) A mother's breastfeeding of a child or expressing breast milk does not constitute indecent or obscene conduct under subsection (1) regardless of whether or not her areola or nipple is visible during or incidental to the breastfeeding or expressing of breast milk.

History: Add. 1952, Act 73, Eff. Sept. 18, 1952;—Am. 2002, Act 672, Eff. Mar. 31, 2003;—Am. 2005, Act 300, Eff. Feb. 1, 2006;—Am. 2014, Act 198, Imd. Eff. June 24, 2014.

750.336 Repealed. 1974, Act 266, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to taking indecent liberties with child under 16.

750.337 Repealed. 2015, Act 210, Eff. Mar. 14, 2016.

Compiler's note: The repealed section pertained to indecent language used in presence of women and children.

750.338 Gross indecency; between male persons.

Sec. 338. Any male person who, in public or in private, commits or is a party to the commission of or procures or attempts to procure the commission by any male person of any act of gross indecency with another male person shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years, or by a fine of not more than \$2,500.00, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.338;—Am. 1952, Act 73, Eff. Sept. 18, 1952.

Constitutionality: This section, which prohibits "acts of gross indecency," is not unconstitutionally vague as applied to forced fellatio and fellatio with a minor. People v Howell, 396 Mich 16; 238 NW 2d 148 (1976).

Former law: See section 1 of Act 198 of 1903, being CL 1915, § 15511; and CL 1929, § 16851.

750.338a Gross indecency; female persons.

Sec. 338a. Any female person who, in public or in private, commits or is a party to the commission of, or any person who procures or attempts to procure the commission by any female person of any act of gross indecency with another female person shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years, or by a fine of not more than \$2,500.00, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

History: Add. 1939, Act 148, Eff. Sept. 29, 1939;—CL 1948, 750.338a;—Am. 1952, Act 73, Eff. Sept. 18, 1952.

750.338b Gross indecency; between male and female persons.

Sec. 338b. Any male person who, in public or in private, commits or is a party to the commission of any act of gross indecency with a female person shall be guilty of a felony, punishable as provided in this section. Any female person who, in public or in private, commits or is a party to the commission of any act of gross indecency with a male person shall be guilty of a felony punishable as provided in this section. Any person who procures or attempts to procure the commission of any act of gross indecency by and between any male person and any female person shall be guilty of a felony punishable as provided in this section. Any person convicted of a felony as provided in this section shall be punished by imprisonment in the state prison for not more than 5 years, or by a fine of not more than \$2,500.00, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

History: Add. 1939, Act 148, Eff. Sept. 29, 1939;—CL 1948, 750.338b;—Am. 1952, Act 73, Eff. Sept. 18, 1952.

750.339-750.342 Repealed. 1974, Act 266, Eff. Apr. 1, 1975.

Compiler's note: The repealed sections pertained to females over 15 debauching males under 15; males over 15 debauching males under 15; ravishing or abusing female patient in mental institution; and carnal knowledge of female ward by guardian.

750.343 Repealed. 1957, Act 265, Imd. Eff. June 13, 1957.

Compiler's note: The repealed section prohibited distribution of obscene literature.

750.343a-750.343d Repealed. 1984, Act 343, Eff. Mar. 29, 1985.

Compiler's note: The repealed sections pertained to obscene, sadistic, or masochistic literature.

750.343e Repealed. 1978, Act 33, Eff. June 1, 1978.

Compiler's note: The repealed section pertained to obscene publications, pictures, or recordings.

750.344-750.346 Repealed. 1984, Act 343, Eff. Mar. 29, 1985.

Compiler's note: The repealed sections pertained to publication of criminal news and accounts of lust, and to distribution of obscene literature by minors, penalties, and search warrants.

750.347 Disabled or disfigured human being; exposure or exhibition; violation as misdemeanor; penalty.

Sec. 347. A physician or other person who exposes or exhibits any human being who is disabled or disfigured, except as used for scientific purposes before members of the medical profession or medical classes, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.347;—Am. 2015, Act 214, Eff. Mar. 14, 2016.

Former law: See sections 1 to 3 of Act 103 of 1903, being CL 1915, §§ 15518 to 15520; and CL 1929, §§ 16890 to 16892.