

# HOUSE BILL No. 5272

October 17, 2001, Introduced by Reps. Tabor, Woronchak, Birkholz, Allen, Vander Veen, Jelinek, Middaugh, Pumford, Meyer, Cassis, Newell, Shackleton, Scranton, Richardville, Patterson, Kuipers, Toy, Gilbert, Sanborn and DeVuyst 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 2000 PA 462 and section 81a as amended by 1999 PA 270.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 81. (1) A person who assaults or assaults and batters  
2 an individual, if no other punishment is prescribed by law, is  
3 guilty of a misdemeanor punishable by imprisonment for not more  
4 than 90 days or a fine of not more than \$500.00, or both.

5       (2) Except as provided in subsection (3) or (4), an individ-  
6 ual who assaults or assaults and batters his or her spouse or  
7 former spouse, an individual WITH WHOM HE OR SHE IS OR WAS  
8 CONDUCTING A DATING RELATIONSHIP, AN INDIVIDUAL with whom he or  
9 she has had a child in common, or a resident or former resident

1 of his or her household, is guilty of a misdemeanor punishable by  
2 imprisonment for not more than 93 days or a fine of not more than  
3 \$500.00, or both.

4 (3) An individual who assaults or assaults and batters his  
5 or her spouse or former spouse, an individual WITH WHOM HE OR SHE  
6 IS OR WAS CONDUCTING A DATING RELATIONSHIP, AN INDIVIDUAL with  
7 whom he or she has had a child in common, or a resident or former  
8 resident of his or her household, in violation of subsection (2),  
9 and who has previously been convicted of assaulting or assaulting  
10 and battering his or her spouse or former spouse, an individual  
11 WITH WHOM HE OR SHE IS OR WAS CONDUCTING A DATING RELATIONSHIP,  
12 AN INDIVIDUAL with whom he or she has had a child in common, or a  
13 resident or former resident of his or her household, in violation  
14 of this section or a local ordinance substantially corresponding  
15 to this section, or in violation of section 81a, 82, 83, 84, or  
16 86, may be punished by imprisonment for not more than 1 year or a  
17 fine of not more than \$1,000.00, or both.

18 (4) An individual who assaults or assaults and batters his  
19 or her spouse or former spouse, an individual WITH WHOM HE OR SHE  
20 IS OR WAS CONDUCTING A DATING RELATIONSHIP, AN INDIVIDUAL with  
21 whom he or she has had a child in common, or a resident or former  
22 resident of his or her household, in violation of subsection (2),  
23 and who has 2 or more previous convictions for assaulting or  
24 assaulting and battering his or her spouse or former spouse, an  
25 individual WITH WHOM HE OR SHE IS OR WAS CONDUCTING A DATING  
26 RELATIONSHIP, AN INDIVIDUAL with whom he or she has had a child  
27 in common, or a resident or former resident of his or her

1 household, in violation of this section or a local ordinance  
2 substantially corresponding to this section, or in violation of  
3 section 81a, 82, 83, 84, or 86, is guilty of a felony punishable  
4 by imprisonment for not more than 2 years or a fine of not more  
5 than \$2,500.00, or both.

6 (5) This section does not apply to an individual using nec-  
7 essary reasonable physical force in compliance with section 1312  
8 of the revised school code, 1976 PA 451, MCL 380.1312.

9 Sec. 81a. (1) A person who assaults an individual without a  
10 weapon and inflicts serious or aggravated injury upon that indi-  
11 vidual without intending to commit murder or to inflict great  
12 bodily harm less than murder is guilty of a misdemeanor punish-  
13 able by imprisonment for not more than 1 year or a fine of not  
14 more than \$1,000.00, or both.

15 (2) Except as provided in subsection (3), an individual who  
16 assaults his or her spouse or former spouse, an individual WITH  
17 WHOM HE OR SHE IS OR WAS CONDUCTING A DATING RELATIONSHIP, AN  
18 INDIVIDUAL with whom he or she has had a child in common, or a  
19 resident or former resident of the same household without a  
20 weapon and inflicts serious or aggravated injury upon that indi-  
21 vidual without intending to commit murder or to inflict great  
22 bodily harm less than murder is guilty of a misdemeanor punish-  
23 able by imprisonment for not more than 1 year or a fine of not  
24 more than \$1,000.00, or both.

25 (3) An individual who assaults his or her spouse or former  
26 spouse, an individual WITH WHOM HE OR SHE IS OR WAS CONDUCTING A  
27 DATING RELATIONSHIP, AN INDIVIDUAL with whom he or she has had a

1 child in common, or a resident or former resident of the same  
2 household, in violation of subsection (2), and who has 1 or more  
3 previous convictions for assaulting or assaulting and battering  
4 his or her spouse or former spouse, an individual WITH WHOM HE OR  
5 SHE IS OR WAS CONDUCTING A DATING RELATIONSHIP, AN INDIVIDUAL  
6 with whom he or she has had a child in common, or a resident or  
7 former resident of the same household, in violation of this sec-  
8 tion or section 81, 82, 83, 84, or 86 or a local ordinance sub-  
9 stantially corresponding to section 81, is guilty of a felony  
10 punishable by imprisonment for not more than 2 years or a fine of  
11 not more than \$2,500.00, or both.