

# HOUSE BILL No. 6559

November 10, 2010, Introduced by Rep. Terry Brown and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 520b (MCL 750.520b), as amended by 2007 PA 163.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 520b. (1) A person is guilty of criminal sexual conduct  
2 in the first degree if he or she engages in sexual penetration with  
3 another person and if any of the following circumstances exists:

4       (a) That other person is under 13 years of age.

5       (b) That other person is at least 13 ~~but less than 16~~ years of  
6 age and any of the following **APPLY**:

7       (i) The actor is a member of the same household as the victim,

8 **AND THE VICTIM IS LESS THAN 16 YEARS OF AGE.**

9       (ii) The actor is related to the victim by blood or affinity to

1 the fourth degree, **AND THE VICTIM IS LESS THAN 16 YEARS OF AGE.**

2 (iii) The actor is in a position of authority over the victim  
3 and used this authority to coerce the victim to submit, **AND THE**  
4 **VICTIM IS LESS THAN 16 YEARS OF AGE.**

5 (iv) The actor is a teacher, substitute teacher, or  
6 administrator of the public school, nonpublic school, school  
7 district, or intermediate school district in which that other  
8 person is enrolled.

9 (v) The actor is an employee or a contractual service provider  
10 of the public school, nonpublic school, school district, or  
11 intermediate school district in which that other person is  
12 enrolled, or is a volunteer who is not a student in any public  
13 school or nonpublic school, or is an employee of this state or of a  
14 local unit of government of this state or of the United States  
15 assigned to provide any service to that public school, nonpublic  
16 school, school district, or intermediate school district, and the  
17 actor uses his or her employee, contractual, or volunteer status to  
18 gain access to, or to establish a relationship with, that other  
19 person.

20 (c) Sexual penetration occurs under circumstances involving  
21 the commission of any other felony.

22 (d) The actor is aided or abetted by 1 or more other persons  
23 and either of the following circumstances exists:

24 (i) The actor knows or has reason to know that the victim is  
25 mentally incapable, mentally incapacitated, or physically helpless.

26 (ii) The actor uses force or coercion to accomplish the sexual  
27 penetration. Force or coercion includes, but is not limited to, any

1 of the circumstances listed in subdivision (f).

2 (e) The actor is armed with a weapon or any article used or  
3 fashioned in a manner to lead the victim to reasonably believe it  
4 to be a weapon.

5 (f) The actor causes personal injury to the victim and force  
6 or coercion is used to accomplish sexual penetration. Force or  
7 coercion includes, but is not limited to, any of the following  
8 circumstances:

9 (i) When the actor overcomes the victim through the actual  
10 application of physical force or physical violence.

11 (ii) When the actor coerces the victim to submit by threatening  
12 to use force or violence on the victim, and the victim believes  
13 that the actor has the present ability to execute these threats.

14 (iii) When the actor coerces the victim to submit by threatening  
15 to retaliate in the future against the victim, or any other person,  
16 and the victim believes that the actor has the ability to execute  
17 this threat. As used in this subdivision, "to retaliate" includes  
18 threats of physical punishment, kidnapping, or extortion.

19 (iv) When the actor engages in the medical treatment or  
20 examination of the victim in a manner or for purposes that are  
21 medically recognized as unethical or unacceptable.

22 (v) When the actor, through concealment or by the element of  
23 surprise, is able to overcome the victim.

24 (g) The actor causes personal injury to the victim, and the  
25 actor knows or has reason to know that the victim is mentally  
26 incapable, mentally incapacitated, or physically helpless.

27 (h) That other person is mentally incapable, mentally

1 disabled, mentally incapacitated, or physically helpless, and any  
2 of the following:

3 (i) The actor is related to the victim by blood or affinity to  
4 the fourth degree.

5 (ii) The actor is in a position of authority over the victim  
6 and used this authority to coerce the victim to submit.

7 (2) Criminal sexual conduct in the first degree is a felony  
8 punishable as follows:

9 (a) Except as provided in subdivisions (b) and (c), by  
10 imprisonment for life or for any term of years.

11 (b) For a violation that is committed by an individual 17  
12 years of age or older against an individual less than 13 years of  
13 age by imprisonment for life or any term of years, but not less  
14 than 25 years.

15 (c) For a violation that is committed by an individual 17  
16 years of age or older against an individual less than 13 years of  
17 age, by imprisonment for life without the possibility of parole if  
18 the person was previously convicted of a violation of this section  
19 or section 520c, 520d, 520e, or 520g committed against an  
20 individual less than 13 years of age or a violation of law of the  
21 United States, another state or political subdivision substantially  
22 corresponding to a violation of this section or section 520c, 520d,  
23 520e, or 520g committed against an individual less than 13 years of  
24 age.

25 (d) In addition to any other penalty imposed under subdivision  
26 (a) or (b), the court shall sentence the defendant to lifetime  
27 electronic monitoring under section 520n.

1           (3) The court may order a term of imprisonment imposed under  
2 this section to be served consecutively to any term of imprisonment  
3 imposed for any other criminal offense arising from the same  
4 transaction.