

SENATE BILL NO. 516

September 20, 2023, Introduced by Senators SHINK, BAYER, CHERRY, DAMOOSE, CHANG, IRWIN, GEISS, KLINEFELT and VICTORY and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1927 PA 175, entitled
 "The code of criminal procedure,"
 by amending section 27b of chapter VIII (MCL 768.27b), as amended
 by 2018 PA 372.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1** CHAPTER VIII
- 2** Sec. 27b. (1) Except as provided in subsection (4), in a
- 3** criminal action in which the defendant is accused of an offense
- 4** involving domestic violence, ~~or~~ sexual assault, **commercial sexual**

1 **activity, human trafficking, or prostitution**, evidence of the
2 defendant's commission of other acts of domestic violence, ~~or~~
3 sexual assault, **commercial sexual activity, human trafficking, or**
4 **prostitution** is admissible for any purpose for which it is
5 relevant, if it is not otherwise excluded under Michigan rule of
6 evidence 403.

7 (2) If the prosecuting attorney intends to offer evidence
8 under this section, the prosecuting attorney shall disclose the
9 evidence, including the statements of witnesses or a summary of the
10 substance of any testimony that is expected to be offered, to the
11 defendant not less than 15 days before the scheduled date of trial
12 or at a later time as allowed by the court for good cause shown.

13 (3) This section does not limit or preclude the admission or
14 consideration of evidence under any other statute, including, but
15 not limited to, under section 27a **of this chapter**, rule of
16 evidence, or case law.

17 (4) Evidence of an act occurring more than 10 years before the
18 charged offense is inadmissible under this section unless the court
19 determines that 1 or more of the following apply:

20 (a) The act was a sexual assault that was reported to law
21 enforcement within 5 years of the date of the sexual assault.

22 (b) The act was a sexual assault and a sexual assault evidence
23 kit was collected.

24 (c) The act was a sexual assault and the testing of evidence
25 connected to the assault resulted in a DNA identification profile
26 that is associated with the defendant.

27 (d) Admitting the evidence is in the interest of justice.

28 (5) The **2018** amendatory act that amended this subsection ~~does~~
29 **did** not alter or in any manner affect the statutes of limitation

1 for the offenses described in this section.

2 (6) As used in this section:

3 (a) **"Commercial sexual activity" means that term as defined in**
4 **section 462a of the Michigan penal code, 1931 PA 328, MCL 750.462a.**

5 (b) ~~(a)~~—"Domestic violence" or "offense involving domestic
6 violence" means an occurrence of 1 or more of the following acts by
7 a person that is not an act of self-defense:

8 (i) Causing or attempting to cause physical or mental harm to a
9 family or household member.

10 (ii) Placing a family or household member in fear of physical
11 or mental harm.

12 (iii) Causing or attempting to cause a family or household
13 member to engage in involuntary sexual activity by force, threat of
14 force, or duress.

15 (iv) Engaging in activity toward a family or household member
16 that would cause a reasonable person to feel terrorized,
17 frightened, intimidated, threatened, harassed, or molested.

18 (c) ~~(b)~~—"Family or household member" means any of the
19 following:

20 (i) A spouse or former spouse.

21 (ii) An individual with whom the person resides or has resided.

22 (iii) An individual with whom the person has or has had a child
23 in common.

24 (iv) An individual with whom the person has or has had a dating
25 relationship. As used in this subparagraph, "dating relationship"
26 means frequent, intimate associations primarily characterized by
27 the expectation of affectional involvement. This term does not
28 include a casual relationship or an ordinary fraternization between
29 2 individuals in a business or social context.

1 (d) "Human trafficking" means a violation of chapter LXVIIA of
2 the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h.

3 (e) "Prostitution" means a violation of chapter LXVII of the
4 Michigan penal code, 1931 PA 328, MCL 750.448 to 750.462.

5 (f) ~~(e)~~"Sexual assault" means a listed offense as that term
6 is defined in section 2 of the sex offenders registration act, 1994
7 PA 295, MCL 28.722.

8 (7) This section applies to trials and evidentiary hearings
9 commenced or in progress on or after May 1, 2006.