



SENATE BILL No. 762

November 28, 1995, Introduced by Senators CONROY, DINGELL, NORTH, HOFFMAN, YOUNG, BERRYMAN, KOIVISTO, BYRUM, DE BEAUSSAERT, HART and CHERRY and referred to the Committee on Judiciary.

A bill to amend sections 520b and 520c of Act No. 328 of the Public Acts of 1931, entitled as amended

"The Michigan penal code,"

as amended by Act No. 158 of the Public Acts of 1983, being sections 750.520b and 750.520c of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 520b and 520c of Act No. 328 of the
2 Public Acts of 1931, as amended by Act No. 158 of the Public Acts
3 of 1983, being sections 750.520b and 750.520c of the Michigan
4 Compiled Laws, are amended to read as follows:

5 Sec. 520b. (1) A person is guilty of criminal sexual con-
6 duct in the first degree if he or she engages in sexual penetra-
7 tion with another person and if any of the following
8 circumstances ~~exists~~ EXIST:

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

2 (b) That other person is at least 13 but less than 16 years
3 of age and any of the following:

4 (i) The actor is a member of the same household as the
5 victim.

6 ~~(ii) The actor is related to the victim by blood or affin-~~
7 ~~ity to the fourth degree.~~

8 (ii) ~~(iii)~~ The actor is in a position of authority over
9 the victim and used this authority to coerce the victim to
10 submit.

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

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

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

18 (ii) The actor uses force or coercion to accomplish the
19 sexual penetration. Force or coercion includes but is not
20 limited to any of the circumstances listed in subdivision (f)(i)
21 to (v).

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

25 (f) The actor causes personal injury to the victim and force
26 or coercion is used to accomplish sexual penetration. Force or

1 coercion includes but is not limited to any of the following
2 circumstances:

3 (i) ~~When the~~ THE actor overcomes the victim through the
4 actual application of physical force or physical violence.

5 (ii) ~~When the~~ THE actor coerces the victim to submit by
6 threatening to use force or violence on the victim, and the
7 victim believes that the actor has the present ability to execute
8 these threats.

9 (iii) ~~When the~~ THE actor coerces the victim to submit by
10 threatening to retaliate in the future against the victim, or any
11 other person, and the victim believes that the actor has the
12 ability to execute this threat. As used in this subdivision, "to
13 retaliate" includes threats of physical punishment, kidnapping,
14 or extortion.

15 (iv) ~~When the~~ THE actor engages in the medical treatment
16 or examination of the victim in a manner or for purposes which
17 are medically recognized as unethical or unacceptable.

18 (v) ~~When the~~ THE actor, through concealment or by the ele-
19 ment of surprise, is able to overcome the victim.

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

23 (h) That other person is mentally incapable, mentally dis-
24 abled, mentally incapacitated, or physically helpless, ~~and any~~
25 ~~of the following:~~ (i) ~~The actor is related to the victim by~~
26 ~~blood or affinity to the fourth degree.~~ (ii) ~~The~~ THE actor is

1 in a position of authority over the victim, and used this
2 authority to coerce the victim to submit.

3 (1) THE ACTOR COMMITS INCEST BY ENGAGING IN SEXUAL PENETRA-
4 TION WITH THE VICTIM WHEN THE ACTOR IS RELATED TO THE VICTIM BY
5 BLOOD OR AFFINITY TO THE FOURTH DEGREE.

6 (2) ~~Criminal~~ EXCEPT AS PROVIDED IN SUBSECTION (3),
7 CRIMINAL sexual conduct in the first degree is a felony punish-
8 able by imprisonment in the state prison for life or for any term
9 of years.

10 (3) CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE BY COMMIT-
11 TING INCEST IN VIOLATION OF SUBSECTION (1)(I) IS A FELONY PUNISH-
12 ABLE BY IMPRISONMENT FOR LIFE OR FOR ANY TERM OF YEARS BUT NOT
13 LESS THAN 5 YEARS.

14 Sec. 520c. (1) A person is guilty of criminal sexual con-
15 duct in the second degree if the person engages in sexual contact
16 with another person and if any of the following circumstances
17 exists:

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

19 (b) That other person is at least 13 but less than 16 years
20 of age and any of the following:

21 (i) The actor is a member of the same household as the
22 victim.

23 ~~(ii) The actor is related by blood or affinity to the~~
24 ~~fourth degree to the victim.~~

25 (ii) ~~(iii)~~ The actor is in a position of authority over
26 the victim and the actor used this authority to coerce the victim
27 to submit.

1 (c) Sexual contact occurs under circumstances involving the
2 commission of any other felony.

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

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

8 (ii) The actor uses force or coercion to accomplish the
9 sexual contact. Force or coercion includes but is not limited to
10 any of the circumstances listed in sections 520b(1)(f)(i) to
11 (v).

12 (e) The actor is armed with a weapon, or any article used or
13 fashioned in a manner to lead a person to reasonably believe it
14 to be a weapon.

15 (f) The actor causes personal injury to the victim and force
16 or coercion is used to accomplish the sexual contact. Force or
17 coercion includes but is not limited to any of the circumstances
18 listed in section 520b(1)(f)(i) to (v).

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

22 (h) That other person is mentally incapable, mentally dis-
23 abled, mentally incapacitated, or physically helpless, ~~and any~~
24 ~~of the following: (i) The actor is related to the victim by~~
25 ~~blood or affinity to the fourth degree. (ii) The~~ THE actor is
26 in a position of authority over the victim, and used this
27 authority to coerce the victim to submit.

1 (1) THE ACTOR COMMITS INCEST BY ENGAGING IN SEXUAL
2 PENETRATION WITH THE VICTIM WHEN THE ACTOR IS RELATED TO THE
3 VICTIM BY BLOOD OR AFFINITY TO THE FOURTH DEGREE.

4 (2) ~~Criminal~~ EXCEPT AS PROVIDED IN SUBSECTION (3),
5 CRIMINAL sexual conduct in the second degree is a felony punish-
6 able by imprisonment for not more than 15 years.

7 (3) CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE BY COMMIT-
8 TING INCEST IN VIOLATION OF SUBSECTION (1)(1) IS A FELONY PUNISH-
9 ABLE BY IMPRISONMENT FOR NOT LESS THAN 5 YEARS OR MORE THAN 20
10 YEARS.