

SUBSTITUTE FOR  
HOUSE BILL NO. 5658

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
by amending section 27b of chapter VIII (MCL 768.27b), as added by  
2006 PA 78.

**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**, evidence of the  
5 defendant's commission of other acts of domestic violence **OR SEXUAL**  
6 **ASSAULT** is admissible for any purpose for which it is relevant, if  
7 it is not otherwise excluded under Michigan rule of evidence 403.

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(2) If the prosecuting attorney intends to offer evidence  
9 under this section, the prosecuting attorney shall disclose the

1 evidence, including the statements of witnesses or a summary of the  
2 substance of any testimony that is expected to be offered, to the  
3 defendant not less than 15 days before the scheduled date of trial  
4 or at a later time as allowed by the court for good cause shown.

5 (3) This section does not limit or preclude the admission or  
6 consideration of evidence under any other statute, **INCLUDING, BUT**  
7 **NOT LIMITED TO, UNDER SECTION 27A,** rule of evidence, or case law.

8 (4) Evidence of an act occurring more than 10 years before the  
9 charged offense is inadmissible under this section ~~unless the~~  
10 court determines that ~~admitting this evidence is in the interest of~~  
11 ~~justice.~~ **1 OR MORE OF THE FOLLOWING APPLY:**

12 (A) **THE ACT WAS A SEXUAL ASSAULT THAT WAS REPORTED TO LAW**  
13 **ENFORCEMENT WITHIN 5 YEARS OF THE DATE OF THE SEXUAL ASSAULT.**

14 (B) **THE ACT WAS A SEXUAL ASSAULT AND A SEXUAL ASSAULT EVIDENCE**  
15 **KIT WAS COLLECTED.**

16 (C) **THE ACT WAS A SEXUAL ASSAULT AND THE TESTING OF EVIDENCE**  
17 **CONNECTED TO THE ASSAULT RESULTED IN A DNA IDENTIFICATION PROFILE**  
18 **THAT IS ASSOCIATED WITH THE DEFENDANT.**

19 (D) **ADMITTING THE EVIDENCE IS IN THE INTEREST OF JUSTICE.**

20 (5) **THE AMENDATORY ACT THAT AMENDED THIS SUBSECTION DOES NOT**  
21 **ALTER OR IN ANY MANNER AFFECT THE STATUTES OF LIMITATION FOR THE**  
22 **OFFENSES DESCRIBED IN THIS SECTION.**

23 (6) ~~(5)~~ **As used in this section:**

24 (a) "Domestic violence" or "offense involving domestic  
25 violence" means an occurrence of 1 or more of the following acts by  
26 a person that is not an act of self-defense:

27 (i) Causing or attempting to cause physical or mental harm to

1 a family or household member.

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

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

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

10 (b) "Family or household member" means any of the following:

11 (i) A spouse or former spouse.

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

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

16 (iv) An individual with whom the person has or has had a  
17 dating relationship. As used in this subparagraph, "dating  
18 relationship" means frequent, intimate associations primarily  
19 characterized by the expectation of affectional involvement. This  
20 term does not include a casual relationship or an ordinary  
21 fraternization between 2 individuals in a business or social  
22 context.

23 (c) **"SEXUAL ASSAULT" MEANS A LISTED OFFENSE AS THAT TERM IS**  
24 **DEFINED IN SECTION 2 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA**  
25 **295, MCL 28.722.**

26 (7) ~~(6)~~—This section applies to trials and evidentiary  
27 hearings commenced or in progress on or after May 1, 2006.

1           Enacting section 1. This amendatory act takes effect 90 days  
2 after the date it is enacted into law.