

HOUSE BILL NO. 4214

February 11, 2021, Introduced by Reps. Mueller and LaGrand and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 27c of chapter VIII (MCL 768.27c), as added by 2006 PA 79.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER VIII

2 Sec. 27c. (1) Evidence of a statement by a declarant is
3 admissible if all of the following apply:

4 (a) The statement purports to narrate, describe, or explain

1 the infliction or threat of physical injury upon the declarant.

2 (b) The action in which the evidence is offered under this
3 section is an offense involving domestic violence, **prostitution, or**
4 **human trafficking.**

5 (c) The statement was made at or near the time of the
6 infliction or threat of physical injury. Evidence of a statement
7 made more than 5 years before the filing of the current action or
8 proceeding is inadmissible under this section.

9 (d) The statement was made under circumstances that would
10 indicate the statement's trustworthiness.

11 (e) The statement was made to a law enforcement officer.

12 (2) For the purpose of subsection (1)(d), circumstances
13 relevant to the issue of trustworthiness include, but are not
14 limited to, all of the following:

15 (a) Whether the statement was made in contemplation of pending
16 or anticipated litigation in which the declarant was interested.

17 (b) Whether the declarant has a bias or motive for fabricating
18 the statement, and the extent of any bias or motive.

19 (c) Whether the statement is corroborated by evidence other
20 than statements that are admissible only under this section.

21 (3) If the prosecuting attorney intends to offer evidence
22 under this section, the prosecuting attorney shall disclose the
23 evidence, including the statements of witnesses or a summary of the
24 substance of any testimony that is expected to be offered, to the
25 defendant not less than 15 days before the scheduled date of trial
26 or at a later time as allowed by the court for good cause shown.

27 (4) Nothing in this section shall be construed to abrogate any
28 privilege conferred by law.

29 (5) As used in this section:

1 (a) "Declarant" means a person who makes a statement.

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

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

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

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

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

15 (c) "Family or household member" means any of the following:

16 (i) A spouse or former spouse.

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

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

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

26 (d) **"Human trafficking" means a violation of chapter LXVIIA of**
27 **the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.762h.**

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

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