

## **Appendix B**

### **Michigan Compiled Laws (MCL)**

**DOMESTIC AND SEXUAL VIOLENCE (EXCERPT)**  
**Act 389 of 1978**

**400.1501 Definitions.**

Sec. 1. As used in this act:

(a) "Board" means the Michigan domestic and sexual violence prevention and treatment board created under Executive Order No. 2012-17.

(b) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

(c) "Department" means the department of health and human services.

(d) "Domestic violence" means the occurrence of any of the following acts by a person that is not an act of self-defense:

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

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

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

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

(e) "Family or household member" includes any of the following:

(i) A spouse or former spouse.

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

(iii) An individual with whom the person has or has had a dating relationship.

(iv) An individual with whom the person is or has engaged in a sexual relationship.

(v) An individual to whom the person is related or was formerly related by marriage.

(vi) An individual with whom the person has a child in common.

(vii) The minor child of an individual described in subparagraphs (i) to (vi).

(f) "Fund" means the domestic violence prevention and treatment fund created in section 5.

(g) "Prime sponsor" means a county, city, village, or township of this state, or a combination thereof, or a private, nonprofit association or organization.

**History:** 1978, Act 389, Eff. Oct. 1, 1978;—Am. 2000, Act 84, Eff. July 1, 2000;—Am. 2018, Act 281, Eff. Sept. 27, 2018.

**Popular name:** Domestic Violence Prevention and Treatment Act

**THE MICHIGAN PENAL CODE (EXCERPT)**  
**Act 328 of 1931**

**750.145e Dissemination of sexually explicit visual material of another person; prohibition; exceptions; other violations of law; violation; penalty; definitions.**

Sec. 145e. (1) A person shall not intentionally and with the intent to threaten, coerce, or intimidate disseminate any sexually explicit visual material of another person if all of the following conditions apply:

(a) The other person is not less than 18 years of age.

(b) The other person is identifiable from the sexually explicit visual material itself or information displayed in connection with the sexually explicit visual material. This subdivision does not apply if the identifying information is supplied by a person other than the disseminator.

(c) The person obtains the sexually explicit visual material of the other person under circumstances in which a reasonable person would know or understand that the sexually explicit visual material was to remain private.

(d) The person knows or reasonably should know that the other person did not consent to the dissemination of the sexually explicit visual material.

(2) Subsection (1) does not apply to any of the following:

(a) To the extent content is provided by another person, a person engaged in providing:

(i) An interactive computer service as that term is defined in 47 USC 230;

(ii) An information service, telecommunications service, or cable service as those terms are defined in 47 USC 153;

(iii) A commercial mobile service as defined in 47 USC 332;

(iv) A direct-to-home satellite service as defined in 47 USC 303(v); or

(v) A video service as defined in 2006 PA 480, MCL 484.3301 to 484.3315.

(b) A person who disseminates sexually explicit visual material that is part of a news report or commentary or an artistic or expressive work, such as a performance, work of art, literary work, theatrical work, musical work, motion picture, film, or audiovisual work.

(c) A law enforcement officer, or a corrections officer or guard in a correctional facility or jail, who is engaged in the official performance of his or her duties.

(d) A person disseminating sexually explicit visual material in the reporting of a crime.

(3) This section does not prohibit a person from being charged with, convicted of, or punished for another violation of law committed by that person while violating or attempting to violate this section.

(4) A person who violates subsection (1) is guilty of a crime and punishable as provided in section 145f.

(5) As used in this section:

(a) "Disseminate" means post, distribute, or publish on a computer device, computer network, website, or other electronic device or medium of communication.

(b) "Nudity" means displaying a person's genitalia or anus or, if the person is a female, her nipples or areola.

(c) "Sexually explicit visual material" means a photograph or video that depicts nudity, erotic fondling, sexual intercourse, or sadomasochistic abuse.

**History:** Add. 2016, Act 89, Eff. July 25, 2016.

**THE MICHIGAN PENAL CODE (EXCERPT)**  
**Act 328 of 1931**

**750.520b Criminal sexual conduct in the first degree; circumstances; felony; consecutive terms.**

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

- (a) That other person is under 13 years of age.
- (b) That other person is at least 13 but less than 16 years of age and any of the following:
  - (i) The actor is a member of the same household as the victim.
  - (ii) The actor is related to the victim by blood or affinity to the fourth degree.
  - (iii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.
  - (iv) The actor is a teacher, substitute teacher, or administrator of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled.
  - (v) The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.
  - (vi) The actor is an employee, contractual service provider, or volunteer of a child care organization, or a person licensed to operate a foster family home or a foster family group home in which that other person is a resident, and the sexual penetration occurs during the period of that other person's residency. As used in this subparagraph, "child care organization", "foster family home", and "foster family group home" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111.
- (c) Sexual penetration occurs under circumstances involving the commission of any other felony.
- (d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:
  - (i) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.
  - (ii) The actor uses force or coercion to accomplish the sexual penetration. Force or coercion includes, but is not limited to, any of the circumstances listed in subdivision (f).
- (e) The actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.
- (f) The actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration. Force or coercion includes, but is not limited to, any of the following circumstances:
  - (i) When the actor overcomes the victim through the actual application of physical force or physical violence.
  - (ii) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats.
  - (iii) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute this threat. As used in this subdivision, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.
  - (iv) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes that are medically recognized as unethical or unacceptable.
  - (v) When the actor, through concealment or by the element of surprise, is able to overcome the victim.
- (g) The actor causes personal injury to the victim, and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.
- (h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:
  - (i) The actor is related to the victim by blood or affinity to the fourth degree.
  - (ii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

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

- (a) Except as provided in subdivisions (b) and (c), by imprisonment for life or for any term of years.
- (b) For a violation that is committed by an individual 17 years of age or older against an individual less than 13 years of age by imprisonment for life or any term of years, but not less than 25 years.

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

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

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

**History:** Add. 1974, Act 266, Eff. Apr. 1, 1975;—Am. 1983, Act 158, Eff. Mar. 29, 1984;—Am. 2002, Act 714, Eff. Apr. 1, 2003;—Am. 2006, Act 165, Eff. Aug. 28, 2006;—Am. 2006, Act 169, Eff. Aug. 28, 2006;—Am. 2007, Act 163, Eff. July 1, 2008;—Am. 2012, Act 372, Eff. Apr. 1, 2013;—Am. 2014, Act 23, Imd. Eff. Mar. 4, 2014.

**Constitutionality:** The provision in the criminal sexual conduct statute which permits elevation of a criminal sexual conduct offense from a lesser to a higher degree on the basis of proof of personal injury to the victim in the form of mental anguish is not unconstitutionally vague. People v Petrella, 424 Mich 221; 380 NW2d 11 (1985).

**Compiler's note:** Section 2 of Act 266 of 1974 provides:

**“Saving clause.**

“All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act.”

**THE MICHIGAN PENAL CODE (EXCERPT)**  
**Act 328 of 1931**

**750.520c Criminal sexual conduct in the second degree; felony.**

Sec. 520c. (1) A person is guilty of criminal sexual conduct in the second degree if the person engages in sexual contact with another person and if any of the following circumstances exists:

- (a) That other person is under 13 years of age.
- (b) That other person is at least 13 but less than 16 years of age and any of the following:
  - (i) The actor is a member of the same household as the victim.
  - (ii) The actor is related by blood or affinity to the fourth degree to the victim.
  - (iii) The actor is in a position of authority over the victim and the actor used this authority to coerce the victim to submit.
  - (iv) The actor is a teacher, substitute teacher, or administrator of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled.
  - (v) The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.
  - (vi) The actor is an employee, contractual service provider, or volunteer of a child care organization, or a person licensed to operate a foster family home or a foster family group home in which that other person is a resident and the sexual contact occurs during the period of that other person's residency. As used in this subdivision, "child care organization", "foster family home", and "foster family group home" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111.
- (c) Sexual contact occurs under circumstances involving the commission of any other felony.
- (d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:
  - (i) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.
  - (ii) The actor uses force or coercion to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in section 520b(1)(f).
- (e) The actor is armed with a weapon, or any article used or fashioned in a manner to lead a person to reasonably believe it to be a weapon.
- (f) The actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in section 520b(1)(f).
- (g) The actor causes personal injury to the victim and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.
- (h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:
  - (i) The actor is related to the victim by blood or affinity to the fourth degree.
  - (ii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.
  - (i) That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or a volunteer with, the department of corrections who knows that the other person is under the jurisdiction of the department of corrections.
  - (j) That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or a volunteer with, a private vendor that operates a youth correctional facility under section 20g of the corrections code of 1953, 1953 PA 232, MCL 791.220g, who knows that the other person is under the jurisdiction of the department of corrections.
  - (k) That other person is a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program and the actor is an employee or a contractual employee of or a volunteer with the county or the department of corrections who knows that the other person is under the county's jurisdiction.
  - (l) The actor knows or has reason to know that a court has detained the victim in a facility while the victim is awaiting a trial or hearing, or committed the victim to a facility as a result of the victim having been found responsible for committing an act that would be a crime if committed by an adult, and the actor is an employee or contractual employee of, or a volunteer with, the facility in which the victim is detained or to

which the victim was committed.

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

(a) By imprisonment for not more than 15 years.

(b) In addition to the penalty specified in subdivision (a), the court shall sentence the defendant to lifetime electronic monitoring under section 520n if the violation involved sexual contact committed by an individual 17 years of age or older against an individual less than 13 years of age.

**History:** Add. 1974, Act 266, Eff. Apr. 1, 1975;—Am. 1983, Act 158, Eff. Mar. 29, 1984;—Am. 2000, Act 227, Eff. Oct. 1, 2000;—Am. 2002, Act 714, Eff. Apr. 1, 2003;—Am. 2006, Act 171, Eff. Aug. 28, 2006;—Am. 2007, Act 163, Eff. July 1, 2008;—Am. 2012, Act 372, Eff. Apr. 1, 2013.

**Compiler's note:** Section 2 of Act 266 of 1974 provides:

**“Saving clause.**

“All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act.”

**THE MICHIGAN PENAL CODE (EXCERPT)**  
**Act 328 of 1931**

**750.520d Criminal sexual conduct in the third degree; felony.**

Sec. 520d. (1) A person is guilty of criminal sexual conduct in the third degree if the person engages in sexual penetration with another person and if any of the following circumstances exist:

(a) That other person is at least 13 years of age and under 16 years of age.

(b) Force or coercion is used to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in section 520b(1)(f)(i) to (v).

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

(d) That other person is related to the actor by blood or affinity to the third degree and the sexual penetration occurs under circumstances not otherwise prohibited by this chapter. It is an affirmative defense to a prosecution under this subdivision that the other person was in a position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(e) That other person is at least 16 years of age but less than 18 years of age and a student at a public school or nonpublic school, and either of the following applies:

(i) The actor is a teacher, substitute teacher, or administrator of that public school, nonpublic school, school district, or intermediate school district. This subparagraph does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time of the alleged violation.

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

(f) That other person is at least 16 years old but less than 26 years of age and is receiving special education services, and either of the following applies:

(i) The actor is a teacher, substitute teacher, administrator, employee, or contractual service provider of the public school, nonpublic school, school district, or intermediate school district from which that other person receives the special education services. This subparagraph does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(ii) The actor is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(g) The actor is an employee, contractual service provider, or volunteer of a child care organization, or a person licensed to operate a foster family home or a foster family group home, in which that other person is a resident, that other person is at least 16 years of age, and the sexual penetration occurs during that other person's residency. As used in this subdivision, "child care organization", "foster family home", and "foster family group home" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111.

(2) Criminal sexual conduct in the third degree is a felony punishable by imprisonment for not more than 15 years.

**History:** Add. 1974, Act 266, Eff. Apr. 1, 1975;—Am. 1983, Act 158, Eff. Mar. 29, 1984;—Am. 1996, Act 155, Eff. June 1, 1996;—Am. 2002, Act 714, Eff. Apr. 1, 2003;—Am. 2007, Act 163, Eff. July 1, 2008;—Am. 2012, Act 372, Eff. Apr. 1, 2013.

**Compiler's note:** Section 2 of Act 266 of 1974 provides:

**“Saving clause.**

“All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act.”



**THE MICHIGAN PENAL CODE (EXCERPT)**  
**Act 328 of 1931**

**750.520e Criminal sexual conduct in the fourth degree; misdemeanor.**

Sec. 520e. (1) A person is guilty of criminal sexual conduct in the fourth degree if he or she engages in sexual contact with another person and if any of the following circumstances exist:

(a) That other person is at least 13 years of age but less than 16 years of age, and the actor is 5 or more years older than that other person.

(b) Force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the following circumstances:

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

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

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

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

(v) When the actor achieves the sexual contact through concealment or by the element of surprise.

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

(d) That other person is related to the actor by blood or affinity to the third degree and the sexual contact occurs under circumstances not otherwise prohibited by this chapter. It is an affirmative defense to a prosecution under this subdivision that the other person was in a position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(e) The actor is a mental health professional and the sexual contact occurs during or within 2 years after the period in which the victim is his or her client or patient and not his or her spouse. The consent of the victim is not a defense to a prosecution under this subdivision. A prosecution under this subsection shall not be used as evidence that the victim is mentally incompetent.

(f) That other person is at least 16 years of age but less than 18 years of age and a student at a public school or nonpublic school, and either of the following applies:

(i) The actor is a teacher, substitute teacher, or administrator of that public school, nonpublic school, school district, or intermediate school district. This subparagraph does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time of the alleged violation.

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

(g) That other person is at least 16 years old but less than 26 years of age and is receiving special education services, and either of the following applies:

(i) The actor is a teacher, substitute teacher, administrator, employee, or contractual service provider of the public school, nonpublic school, school district, or intermediate school district from which that other person receives the special education services. This subparagraph does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(ii) The actor is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(h) The actor is an employee, contractual service provider, or volunteer of a child care organization, or a person licensed to operate a foster family home or a foster family group home, in which that other person is a resident, that other person is at least 16 years of age, and the sexual contact occurs during that other person's residency. As used in this subdivision, "child care organization", "foster family home", and "foster family

group home" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111.

(2) Criminal sexual conduct in the fourth degree is a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than \$500.00, or both.

**History:** Add. 1974, Act 266, Eff. Apr. 1, 1975;—Am. 1983, Act 158, Eff. Mar. 29, 1984;—Am. 1988, Act 86, Eff. June 1, 1988;—Am. 1994, Act 213, Eff. Oct. 1, 1994;—Am. 1996, Act 155, Eff. June 1, 1996;—Am. 2000, Act 227, Eff. Oct. 1, 2000;—Am. 2000, Act 505, Eff. Mar. 28, 2001;—Am. 2002, Act 714, Eff. Apr. 1, 2003;—Am. 2007, Act 163, Eff. July 1, 2008;—Am. 2012, Act 372, Eff. Apr. 1, 2013.

**Compiler's note:** Section 2 of Act 266 of 1974 provides:

**“Saving clause.**

“All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act.”

**THE MICHIGAN PENAL CODE (EXCERPT)**  
**Act 328 of 1931**

**750.81 Assault or assault and battery; penalties; previous convictions; exception; “dating relationship” defined.**

Sec. 81. (1) Except as otherwise provided in this section, a person who assaults or assaults and batters an individual, if no other punishment is prescribed by law, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(2) Except as provided in subsection (3), (4), or (5), an individual who assaults or assaults and batters his or her spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(3) An individual who assaults or assaults and batters an individual who is pregnant and who knows the individual is pregnant is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(4) An individual who commits an assault or an assault and battery in violation of subsection (2) or (3), and who has previously been convicted of assaulting or assaulting and battering an individual described in either subsection (2) or subsection (3) under any of the following, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both:

(a) This section or an ordinance of a political subdivision of this state substantially corresponding to this section.

(b) Section 81a, 82, 83, 84, or 86.

(c) A law of another state or an ordinance of a political subdivision of another state substantially corresponding to this section or section 81a, 82, 83, 84, or 86.

(5) An individual who commits an assault or an assault and battery in violation of subsection (2) or (3), and who has 2 or more previous convictions for assaulting or assaulting and battering an individual described in either subsection (2) or subsection (3) under any of the following, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$5,000.00, or both:

(a) This section or an ordinance of a political subdivision of this state substantially corresponding to this section.

(b) Section 81a, 82, 83, 84, or 86.

(c) A law of another state or an ordinance of a political subdivision of another state substantially corresponding to this section or section 81a, 82, 83, 84, or 86.

(6) This section does not apply to an individual using necessary reasonable physical force in compliance with section 1312 of the revised school code, 1976 PA 451, MCL 380.1312.

(7) As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 75081;—Am. 1994, Act 64, Eff. July 1, 1994;—Am. 1999, Act 270, Eff. July 1, 2000;—Am. 2000, Act 462, Imd. Eff. Jan. 10, 2001;—Am. 2001, Act 189, Eff. Apr. 1, 2002;—Am. 2001, Act 190, Eff. Apr. 1, 2002;—Am. 2012, Act 366, Eff. Apr. 1, 2013;—Am. 2016, Act 87, Eff. July 25, 2016.

**Former law:** See section 29 of Ch. 153 of R.S. 1846, being CL 1857, § 5739; CL 1871, § 7538; How., § 9103; CL 1897, § 11498; CL 1915, § 15220; CL 1929, § 16736; Act 167 of 1879; and Act 54 of 1929.

**THE STATE SCHOOL AID ACT OF 1979 (EXCERPT)**  
**Act 94 of 1979**

**388.1865b Reduction of operations funding; failure to submit title IX certification for sexual assault training.**

Sec. 265b. (1) Appropriations to public universities in section 236 for the fiscal year ending September 30, 2020 for operations funding shall be reduced by 10% pursuant to the procedures described in subdivision (a) for a public university that fails to submit certification to the state budget director, the house and senate appropriations subcommittees on higher education, and the house and senate fiscal agencies by October 1, 2019 that the university complies with sections 274c and 274d and that it complies with all of the requirements described in subdivisions (b) to (i), as follows:

(a) If a university fails to submit certification, the state budget director shall withhold 10% of that university's annual operations funding until the university submits certification. If a university fails to submit certification by the end of the fiscal year, the 10% of its annual operations funding that is withheld shall lapse to the general fund.

(b) For title IX investigations of alleged sexual misconduct, the university prohibits the use of medical experts that have an actual or apparent conflict of interest.

(c) For title IX investigations of alleged sexual misconduct, the university prohibits the issuance of divergent reports to complainants, respondents, and administration and instead requires that identical reports be issued to them.

(d) Consistent with the university's obligations under 20 USC 1092(f), the university notifies each individual who reports having experienced sexual assault by a student, faculty member, or staff member of the university that the individual has the option to report the matter to law enforcement, to the university, to both, or to neither, as the individual may choose.

(e) The university provides both of the following:

(i) For all freshmen and incoming transfer students enrolled, an in-person sexual misconduct prevention presentation or course, which must include contact information for the title IX office of the university.

(ii) For all students not considered freshmen or incoming transfer students, an online or electronic sexual misconduct prevention presentation or course.

(f) The university prohibits seeking compensation from the recipient of any medical procedure, treatment, or care provided by a medical professional who has been convicted of a felony arising out of the medical procedure, treatment, or care.

(g) The university had a third party review its title IX compliance office and related policies and procedures by the end of the 2018-2019 academic year. A copy of the third-party review shall be transmitted to the state budget director, the house and senate appropriations subcommittees on higher education, and the house and senate fiscal agencies. After the third-party review has been conducted for the 2018-2019 academic year, the university shall have a third-party review once every three years and a copy of the third-party review shall be transmitted to the state budget director, the house and senate appropriations subcommittees on higher education, and the house and senate fiscal agencies.

(h) The university requires that the governing board and the president or chancellor of the university receive not less than quarterly reports from their title IX coordinator or title IX office. The report shall contain aggregated data of the number of sexual misconduct reports that the office received for the academic year, the types of reports received, including reports received against employees, and a summary of the general outcomes of the reports and investigations. A member of the governing board may request to review a title IX investigation report involving a complaint against an employee, and the university shall provide the report in a manner it considers appropriate. The university shall protect the complainant's anonymity, and the report shall not contain specific identifying information.

(i) If allegations against an employee are made in more than 1 title IX complaint that resulted in the university finding that no misconduct occurred, the university requires that the title IX officer promptly notify the president or chancellor and a member of the university's governing board in writing and take all appropriate steps to ensure that the matter is being investigated thoroughly, including hiring an outside investigator for future cases involving that employee. A third-party title IX investigation under this subdivision does not prohibit the university from simultaneously conducting its own title IX investigation through its own title IX coordinator.

(2) Each public university that receives an appropriation in section 236 shall also certify that its president or chancellor and a member of its governing board has reviewed all title IX reports involving the alleged sexual misconduct of an employee of the university, and shall send the certification to the house and senate appropriations subcommittees on higher education, the house and senate fiscal agencies, and the state budget

director by October 1, 2019.

(3) For purposes of this section, "sexual misconduct" includes, but is not limited to, any of the following:

- (a) Intimate partner violence.
- (b) Nonconsensual sexual conduct.
- (c) Sexual assault.
- (d) Sexual exploitation.
- (e) Sexual harassment.
- (f) Stalking.

**History:** Add. 2018, Act 265, Eff. Oct. 1, 2018;—Am. 2019, Act 62, Eff. Oct. 1, 2019.