

## **Michigan State Laws**

### **Sexual Violence, Dating and Domestic Violence, Stalking**

#### **Michigan Criminal Law section 750.520a: Rape, Definitions of terms (excerpt)**

- (1) "Intimate parts" includes the primary genital area, groin, inner thigh, buttock, or breast of a human being.
- (2) "Mentally disabled" means that a person has a mental illness, is intellectually disabled, or has a developmental disability.
- (3) "Mentally incapable" means that a person suffers from a mental disease or defect that renders that person temporarily or permanently incapable of appraising the nature of his or her conduct.
- (4) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or other substance administered to that person without his or her consent, or due to any other act committed upon that person without his or her consent.
- (5) "Physically helpless" means that a person is unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to an act.
- (6) "Personal injury" means bodily injury, disfigurement, mental anguish, chronic pain, pregnancy, disease, or loss or impairment of a sexual or reproductive organ.
- (6) "Sexual contact" includes the intentional touching of the victim's or actor's intimate parts or the intentional touching of the clothing covering the immediate area of the victim's or actor's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose, or in a sexual manner for:
  - (a) Revenge.
  - (b) To inflict humiliation.
  - (c) Out of anger.
- (7) "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.
- (8) "Victim" means the person alleging to have been subjected to criminal sexual conduct.

#### **Michigan Criminal Law section 750.520b: Criminal sexual conduct in the first degree; circumstances; felony;**

- (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.
- (2) 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.

**Michigan Criminal Law section 750.520c: Criminal sexual conduct in the second degree; felony.**

- (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

**Michigan Criminal Law section 750.520d: Criminal sexual conduct in the third degree; felony.**

- (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.

**Michigan Criminal Law section 750.520e: Criminal sexual conduct in the fourth degree; misdemeanor.**

- (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.



**Michigan Criminal Law section 750.81: Assault or assault and battery. (Domestic & Dating Violence)**

- (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) or (4), 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 commits an assault or an assault and battery in violation of subsection (2), and who has previously been convicted of assaulting or assaulting and battering 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, under any of the following, may be punished 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.
- (4) An individual who commits an assault or an assault and battery in violation of subsection (2), and who has 2 or more previous convictions for assaulting or assaulting and battering 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, 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.
- (5) 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.
- (6) **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.**

**Michigan Criminal Law section 750.411h: Stalking.**

(1) As used in this section:

- (a) "Course of conduct" means a pattern of conduct composed of a series of 2 or more separate noncontinuous acts evidencing a continuity of purpose.
- (b) "Emotional distress" means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.
- (c) "Harassment" means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.
- (d) "Stalking" means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.
- (e) "Unconsented contact" means any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:
  - (i) Following or appearing within the sight of that individual.
  - (ii) Approaching or confronting that individual in a public place or on private property.
  - (iii) Appearing at that individual's workplace or residence.
  - (iv) Entering onto or remaining on property owned, leased, or occupied by that individual.
  - (v) Contacting that individual by telephone.
  - (vi) Sending mail or electronic communications to that individual.
  - (vii) Placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.
- (f) "Victim" means an individual who is the target of a willful course of conduct involving repeated or continuing harassment.

(2) An individual who engages in stalking is guilty of a crime as follows:

- (a) Except as provided in subdivision (b), a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

- (b) If the victim was less than 18 years of age at any time during the individual's course of conduct and the individual is 5 or more years older than the victim, a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.
- (3) The court may place an individual convicted of violating this section on probation for a term of not more than 5 years. If a term of probation is ordered, the court may, in addition to any other lawful condition of probation, order the defendant to do any of the following:
  - (a) Refrain from stalking any individual during the term of probation.
  - (b) Refrain from having any contact with the victim of the offense.
  - (c) Be evaluated to determine the need for psychiatric, psychological, or social counseling and if, determined appropriate by the court, to receive psychiatric, psychological, or social counseling at his or her own expense.
- (4) In a prosecution for a violation of this section, evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim after having been requested by the victim to discontinue the same or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, gives rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.
- (5) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.