

HOUSE BILL No. 5345

February 20, 2014, Introduced by Reps. Lori, Cavanagh, Kelly, Schor, Singh, Cotter, Leonard, Foster, Geiss, Lyons and Tlaib and referred to the Committee on Health Policy.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 520a (MCL 750.520a), as amended by 2007 PA 163.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 520a. As used in this chapter:
- 2 (a) "Actor" means a person accused of criminal sexual conduct.
- 3 (b) "Developmental disability" means an impairment of general
- 4 intellectual functioning or adaptive behavior ~~which~~ **THAT** meets all
- 5 of the following criteria:
- 6 (i) It originated before the person became 18 years of age.
- 7 (ii) It has continued since its origination or can be expected
- 8 to continue indefinitely.
- 9 (iii) It constitutes a substantial burden to the impaired
- 10 person's ability to perform in society.
- 11 (iv) It is attributable to 1 or more of the following:

1 (A) ~~Mental retardation,~~ **INTELLECTUAL DISABILITY**, cerebral
2 palsy, epilepsy, or autism.

3 (B) Any other condition of a person ~~found to be closely~~
4 ~~related to mental retardation because it~~ **THAT** produces a similar
5 impairment or requires treatment and services similar to those
6 required for a person ~~who is mentally retarded.~~ **DESCRIBED IN THIS**
7 **SUBDIVISION.**

8 (c) "Electronic monitoring" means that term as defined in
9 section 85 of the corrections code of 1953, 1953 PA 232, MCL
10 791.285.

11 (D) **"INTELLECTUAL DISABILITY" MEANS THAT TERM AS DEFINED IN**
12 **SECTION 100B OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100B.**

13 (E) ~~(d)~~ "Intermediate school district" means a corporate body
14 established under part 7 of the revised school code, 1976 PA 451,
15 MCL 380.601 to 380.705.

16 (F) ~~(e)~~ "Intimate parts" includes the primary genital area,
17 groin, inner thigh, buttock, or breast of a human being.

18 (G) ~~(f)~~ "Mental health professional" means that term as
19 defined in section 100b of the mental health code, 1974 PA 258, MCL
20 330.1100b.

21 (H) ~~(g)~~ "Mental illness" means a substantial disorder of
22 thought or mood that significantly impairs judgment, behavior,
23 capacity to recognize reality, or ability to cope with the ordinary
24 demands of life.

25 (I) ~~(h)~~ "Mentally disabled" means that a person has a mental
26 illness, is ~~mentally retarded,~~ **INTELLECTUALLY DISABLED**, or has a
27 developmental disability.

1 (J) ~~(i)~~ "Mentally incapable" means that a person suffers from
2 a mental disease or defect that renders that person temporarily or
3 permanently incapable of appraising the nature of his or her
4 conduct.

5 (K) ~~(j)~~ "Mentally incapacitated" means that a person is
6 rendered temporarily incapable of appraising or controlling his or
7 her conduct due to the influence of a narcotic, anesthetic, or
8 other substance administered to that person without his or her
9 consent, or due to any other act committed upon that person without
10 his or her consent.

11 ~~—— (k) "Mentally retarded" means significantly subaverage general~~
12 ~~intellectual functioning that originates during the developmental~~
13 ~~period and is associated with impairment in adaptive behavior.~~

14 (l) "Nonpublic school" means a private, denominational, or
15 parochial elementary or secondary school.

16 (m) "Physically helpless" means that a person is unconscious,
17 asleep, or for any other reason is physically unable to communicate
18 unwillingness to an act.

19 (n) "Personal injury" means bodily injury, disfigurement,
20 mental anguish, chronic pain, pregnancy, disease, or loss or
21 impairment of a sexual or reproductive organ.

22 (o) "Public school" means a public elementary or secondary
23 educational entity or agency that is established under the revised
24 school code, 1976 PA 451, MCL 380.1 to 380.1852.

25 (p) "School district" means a general powers school district
26 organized under the revised school code, 1976 PA 451, MCL 380.1 to
27 380.1852.

1 (q) "Sexual contact" includes the intentional touching of the
2 victim's or actor's intimate parts or the intentional touching of
3 the clothing covering the immediate area of the victim's or actor's
4 intimate parts, if that intentional touching can reasonably be
5 construed as being for the purpose of sexual arousal or
6 gratification, done for a sexual purpose, or in a sexual manner
7 for:

8 (i) Revenge.

9 (ii) To inflict humiliation.

10 (iii) Out of anger.

11 (r) "Sexual penetration" means sexual intercourse,
12 cunnilingus, fellatio, anal intercourse, or any other intrusion,
13 however slight, of any part of a person's body or of any object
14 into the genital or anal openings of another person's body, but
15 emission of semen is not required.

16 (s) "Victim" means the person alleging to have been subjected
17 to criminal sexual conduct.