

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4520

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 81 and 81a (MCL 750.81 and 750.81a), section
81 as amended by 2016 PA 87 and section 81a as amended by 2012 PA
366.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81. (1) Except as otherwise provided in this section, a
2 person who assaults or assaults and batters an individual, if no
3 other punishment is prescribed by law, is guilty of a misdemeanor
4 punishable by imprisonment for not more than 93 days or a fine of
5 not more than \$500.00, or both. **If the victim of a violation under**
6 **this subsection is a health professional or medical volunteer and**
7 **the violation occurs while the victim is performing the victim's**

1 duties as a health professional or medical volunteer, the person is
2 guilty of a misdemeanor punishable by imprisonment for not more
3 than 93 days or a fine of not more than \$1,000.00, or both. The
4 enhanced fine under this subsection does not apply if the defendant
5 is a patient who is receiving treatment from the victim.

6 (2) Except as provided in subsection (3), (4), or (5), an
7 individual who assaults or assaults and batters ~~his or her~~ **the**
8 **individual's** spouse or former spouse, an individual with whom ~~he or~~
9 ~~she~~ **the individual** has or has had a dating relationship, an
10 individual with whom ~~he or she~~ **the individual** has had a child in
11 common, or a resident or former resident of ~~his or her~~ **the**
12 **individual's** household, is guilty of a misdemeanor punishable by
13 imprisonment for not more than 93 days or a fine of not more than
14 \$500.00, or both.

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

19 (4) An individual who commits an assault or an assault and
20 battery in violation of subsection (2) or (3), and who has
21 previously been convicted of assaulting or assaulting and battering
22 an individual described in either subsection (2) or subsection (3)
23 under any of the following, is guilty of a misdemeanor punishable
24 by imprisonment for not more than 1 year or a fine of not more than
25 \$1,000.00, or both:

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

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

29 (c) A law of another state or an ordinance of a political

1 subdivision of another state substantially corresponding to this
2 section or section 81a, 82, 83, 84, or 86.

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

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

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

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

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

19 **(7) The operator of a health facility or agency or a hospital**
20 **or psychiatric hospital shall post a sign in the health facility or**
21 **agency or hospital or psychiatric hospital in a prominent and**
22 **visible location that provides that a person, other than a patient**
23 **receiving treatment, who assaults a health professional or medical**
24 **volunteer in violation of this section is subject to the enhanced**
25 **fine provided for in this section and that a patient receiving**
26 **treatment who assaults a health professional or medical volunteer**
27 **may still be subject to prosecution under this section.**

28 (8) ~~(7)~~—As used in this section: ~~,"dating~~

29 (a) **"Dating relationship"** means frequent, intimate

1 associations primarily characterized by the expectation of
2 affectional involvement. This term does not include a casual
3 relationship or an ordinary fraternization between 2 individuals in
4 a business or social context.

5 (b) "Health facility or agency" means a health facility or
6 agency licensed under article 17 of the public health code, 1978 PA
7 368, MCL 333.20101 to 333.22260.

8 (c) "Health professional" means an individual who is employed
9 or granted privileges by or under contract with a hospital or
10 psychiatric hospital, health facility or agency, health system, or
11 health care provider, whether operated by a governmental unit or a
12 private entity, and whose duties within the scope of that
13 employment, privilege, or contract involve the provision of direct
14 patient care and require licensure, registration, certification, or
15 other regulation or authorization under the public health code,
16 1978 PA 368, MCL 333.1101 to 333.25211, or who is providing
17 indirect patient care under the direction of a hospital or
18 psychiatric hospital, health facility or agency, health system, or
19 health care provider.

20 (d) "Hospital or psychiatric hospital" means a hospital or
21 psychiatric hospital licensed under the mental health code, 1974 PA
22 258, MCL 330.1001 to 330.2106.

23 (e) "Medical volunteer" means an individual who is
24 volunteering at a hospital or psychiatric hospital, health facility
25 or agency, in a health system, or with a health care provider,
26 whether operated by a governmental unit or a private entity, and
27 whose duties as a volunteer involve the provision of direct patient
28 care, or who is providing indirect patient care under the direction
29 of a hospital or psychiatric hospital, health facility or agency,

1 **health system, or health care provider.**

2 Sec. 81a. (1) Except as otherwise provided in this section, a
 3 person who assaults an individual without a weapon and inflicts
 4 serious or aggravated injury upon that individual without intending
 5 to commit murder or to inflict great bodily harm less than murder
 6 is guilty of a misdemeanor punishable by imprisonment for not more
 7 than 1 year or a fine of not more than \$1,000.00, or both. **If the**
 8 **victim of a violation under this subsection is a health**
 9 **professional or medical volunteer and the violation occurs while**
 10 **the victim is performing the victim's duties as a health**
 11 **professional or medical volunteer, the person is guilty of a**
 12 **misdemeanor punishable by imprisonment for not more than 1 year or**
 13 **a fine of not more than \$2,000.00, or both. The enhanced fine under**
 14 **this subsection does not apply if the defendant is a patient who is**
 15 **receiving treatment from the victim.**

16 (2) Except as provided in subsection (3), an individual who
 17 assaults ~~his or her~~ **the individual's** spouse or former spouse, an
 18 individual with whom ~~he or she~~ **the individual** has or has had a
 19 dating relationship, an individual with whom ~~he or she~~ **the**
 20 **individual** has had a child in common, or a resident or former
 21 resident of the same household without a weapon and inflicts
 22 serious or aggravated injury upon that individual without intending
 23 to commit murder or to inflict great bodily harm less than murder
 24 is guilty of a misdemeanor punishable by imprisonment for not more
 25 than 1 year or a fine of not more than \$1,000.00, or both.

26 (3) An individual who commits an assault and battery in
 27 violation of subsection (2), and who has 1 or more previous
 28 convictions for assaulting or assaulting and battering ~~his or her~~
 29 **the individual's** spouse or former spouse, an individual with whom

1 ~~he or she~~**the individual** has or has had a dating relationship, an
 2 individual with whom ~~he or she~~**the individual** has had a child in
 3 common, or a resident or former resident of the same household, in
 4 violation of any of the following, is guilty of a felony punishable
 5 by imprisonment for not more than 5 years or a fine of not more
 6 than \$5,000.00, or both:

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

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

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

13 **(4) The operator of a health facility or agency or a hospital**
 14 **or psychiatric hospital shall post a sign in the health facility or**
 15 **agency or hospital or psychiatric hospital in a prominent and**
 16 **visible location that provides that a person, other than a patient**
 17 **receiving treatment, who assaults a health professional or medical**
 18 **volunteer in violation of this section is subject to the enhanced**
 19 **fine provided for in this section and that a patient receiving**
 20 **treatment who assaults a health professional or medical volunteer**
 21 **may still be subject to prosecution under this section.**

22 (5) ~~(4)~~As used in this section: ~~,"dating~~

23 (a) **"Dating relationship"** means frequent, intimate
 24 associations primarily characterized by the expectation of
 25 affectional involvement. This term does not include a casual
 26 relationship or an ordinary fraternization between 2 individuals in
 27 a business or social context.

28 (b) **"Health facility or agency"** means a health facility or
 29 agency licensed under article 17 of the public health code, 1978 PA

1 368, MCL 333.20101 to 333.22260.

2 (c) "Health professional" means an individual who is employed
3 or granted privileges by or under contract with a hospital or
4 psychiatric hospital, health facility or agency, health system, or
5 health care provider, whether operated by a governmental unit or a
6 private entity, and whose duties within the scope of that
7 employment, privilege, or contract involve the provision of direct
8 patient care and require licensure, registration, certification, or
9 other regulation or authorization under the public health code,
10 1978 PA 368, MCL 333.1101 to 333.25211, or who is providing
11 indirect patient care under the direction of a hospital or
12 psychiatric hospital, health facility or agency, health system, or
13 health care provider.

14 (d) "Hospital or psychiatric hospital" means a hospital or
15 psychiatric hospital licensed under the mental health code, 1974 PA
16 258, MCL 330.1001 to 330.2106.

17 (e) "Medical volunteer" means an individual who is
18 volunteering at a hospital or psychiatric hospital, health facility
19 or agency, in a health system, or with a health care provider,
20 whether operated by a governmental unit or a private entity, and
21 whose duties as a volunteer involve the provision of direct patient
22 care, or who is providing indirect patient care under the direction
23 of a hospital or psychiatric hospital, health facility or agency,
24 health system, or health care provider.

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

27 Enacting section 2. This amendatory act does not take effect
28 unless House Bill No. 4521 of the 102nd Legislature is enacted into
29 law.