

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 5787**

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 90 (MCL 750.90).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 90. ~~Sexual intercourse under pretext of medical~~  
2 ~~treatment Any person who shall undertake to medically treat any~~  
3 ~~female person, and while so treating her, shall represent to such~~  
4 ~~female that it is, or will be, necessary or beneficial to her~~  
5 ~~health that she have sexual intercourse with a man, and shall~~  
6 ~~thereby induce her to have carnal sexual intercourse with any man,~~  
7 ~~and any man, not being the husband of such female, who shall have~~  
8 ~~sexual intercourse with her by reason of such representation, shall~~  
9 ~~be guilty of a felony, punishable by imprisonment in the state~~

1 ~~prison not more than 10 years.~~

2           (1) A PERSON WHO UNDERTAKES MEDICAL TREATMENT OF A PATIENT AND  
3 IN THE COURSE OF THAT MEDICAL TREATMENT MISREPRESENTS TO THE  
4 PATIENT THAT SEXUAL CONTACT BETWEEN THE PERSON AND THE PATIENT IS  
5 NECESSARY OR WILL BE BENEFICIAL TO THE PATIENT'S HEALTH AND WHO  
6 ENGAGES IN SEXUAL CONTACT WITH THE PATIENT BY MEANS OF THE  
7 MISREPRESENTATION IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT  
8 FOR NOT MORE THAN 20 YEARS.

9           (2) A PERSON WHO UNDERTAKES MEDICAL TREATMENT OF A PATIENT AND  
10 IN THE COURSE OF THAT MEDICAL TREATMENT MISREPRESENTS TO THE  
11 PATIENT THAT SEXUAL PENETRATION BETWEEN THE PERSON AND THE PATIENT  
12 IS NECESSARY OR WILL BE BENEFICIAL TO THE PATIENT'S HEALTH AND WHO  
13 ENGAGES IN SEXUAL PENETRATION WITH THE PATIENT BY MEANS OF THE  
14 MISREPRESENTATION IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT  
15 FOR NOT MORE THAN 25 YEARS.

16           (3) THIS SECTION DOES NOT PROHIBIT A PERSON FROM BEING CHARGED  
17 WITH, CONVICTED OF, OR PUNISHED FOR ANY OTHER VIOLATION OF LAW THAT  
18 IS COMMITTED BY THAT PERSON WHILE VIOLATING THIS SECTION.

19           (4) THE COURT MAY ORDER A TERM OF IMPRISONMENT IMPOSED FOR A  
20 VIOLATION OF THIS SECTION TO BE SERVED CONSECUTIVELY TO A TERM OF  
21 IMPRISONMENT IMPOSED FOR ANY OTHER CRIME, INCLUDING ANY OTHER  
22 VIOLATION OF LAW ARISING OUT OF THE SAME TRANSACTION AS THE  
23 VIOLATION OF THIS SECTION.

24           (5) AS USED IN THIS SECTION:

25           (A) "MEDICAL TREATMENT" INCLUDES AN EXAMINATION OR A  
26 PROCEDURE.

27           (B) "PATIENT" MEANS A PERSON WHO HAS UNDERGONE OR IS SEEKING

1 TO UNDERGO MEDICAL TREATMENT.

2 (C) "SEXUAL CONTACT" MEANS THE INTENTIONAL TOUCHING OF THE  
3 VICTIM'S OR ACTOR'S INTIMATE PARTS OR THE INTENTIONAL TOUCHING OF  
4 THE CLOTHING COVERING THE IMMEDIATE AREA OF THE VICTIM'S OR ACTOR'S  
5 INTIMATE PARTS, IF THAT INTENTIONAL TOUCHING CAN REASONABLY BE  
6 CONSTRUED AS BEING FOR THE PURPOSE OF SEXUAL AROUSAL OR  
7 GRATIFICATION, DONE FOR A SEXUAL PURPOSE, OR DONE IN A SEXUAL  
8 MANNER.

9 (D) "SEXUAL PENETRATION" MEANS SEXUAL INTERCOURSE,  
10 CUNNILINGUS, FELLATIO, ANAL INTERCOURSE, OR ANY OTHER INTRUSION,  
11 HOWEVER SLIGHT, OF ANY PART OF A PERSON'S BODY OR OF ANY OBJECT  
12 INTO THE GENITAL OR ANAL OPENINGS OF ANOTHER PERSON'S BODY,  
13 REGARDLESS OF WHETHER SEMEN IS EMITTED, IF THAT INTRUSION CAN  
14 REASONABLY BE CONSTRUED AS BEING FOR THE PURPOSE OF SEXUAL AROUSAL  
15 OR GRATIFICATION, DONE FOR A SEXUAL PURPOSE, OR DONE IN A SEXUAL  
16 MANNER.

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