

HOUSE BILL No. 5787

April 12, 2018, Introduced by Reps. Kesto, Geiss, Noble, Hornberger, Pagan, Greimel and Chang and referred to the Committee on Law and Justice.

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

11 **(1) A PERSON WHO UNDERTAKES MEDICAL TREATMENT OF A PATIENT AND**

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

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

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

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

22 (5) AS USED IN THIS SECTION:

23 (A) "MEDICAL TREATMENT" INCLUDES AN EXAMINATION OR A
24 PROCEDURE.

25 (B) "PATIENT" MEANS A PERSON WHO HAS UNDERGONE OR IS SEEKING
26 TO UNDERGO MEDICAL TREATMENT.

27 (C) "SEXUAL CONTACT" MEANS THE INTENTIONAL TOUCHING OF THE

1 VICTIM'S OR ACTOR'S INTIMATE PARTS OR THE INTENTIONAL TOUCHING OF
2 THE CLOTHING COVERING THE IMMEDIATE AREA OF THE VICTIM'S OR ACTOR'S
3 INTIMATE PARTS, IF THAT INTENTIONAL TOUCHING CAN REASONABLY BE
4 CONSTRUED AS BEING FOR THE PURPOSE OF SEXUAL AROUSAL OR
5 GRATIFICATION, DONE FOR A SEXUAL PURPOSE, OR IN A SEXUAL MANNER FOR
6 1 OR MORE OF THE FOLLOWING:

7 (i) REVENGE.

8 (ii) TO INFLICT HUMILIATION.

9 (iii) OUT OF ANGER.

10 (D) "SEXUAL PENETRATION" MEANS SEXUAL INTERCOURSE,
11 CUNNILINGUS, FELLATIO, ANAL INTERCOURSE, OR ANY OTHER INTRUSION,
12 HOWEVER SLIGHT, OF ANY PART OF A PERSON'S BODY OR OF ANY OBJECT
13 INTO THE GENITAL OR ANAL OPENINGS OF ANOTHER PERSON'S BODY, BUT
14 EMISSION OF SEMEN IS NOT REQUIRED.

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