

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.520a Definitions.

Sec. 520a.

As used in this chapter:

- (a) "Actor" means a person accused of criminal sexual conduct.
- (b) "Developmental disability" means an impairment of general intellectual functioning or adaptive behavior that meets all of the following criteria:
 - (i) It originated before the person became 18 years of age.
 - (ii) It has continued since its origination or can be expected to continue indefinitely.
 - (iii) It constitutes a substantial burden to the impaired person's ability to perform in society.
 - (iv) It is attributable to 1 or more of the following:
 - (A) Intellectual disability, cerebral palsy, epilepsy, or autism.
 - (B) Any other condition of a person that produces a similar impairment or requires treatment and services similar to those required for a person described in this subdivision.
- (c) "Electronic monitoring" means that term as defined in section 85 of the corrections code of 1953, 1953 PA 232, MCL 791.285.
- (d) "Intellectual disability" means that term as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.
- (e) "Intermediate school district" means a corporate body established under part 7 of the revised school code, 1976 PA 451, MCL 380.601 to 380.705.
- (f) "Intimate parts" includes the primary genital area, groin, inner thigh, buttock, or breast of a human being.
- (g) "Mental health professional" means that term as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.
- (h) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.
- (i) "Mentally disabled" means that a person has a mental illness, is intellectually disabled, or has a developmental disability.
- (j) "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.
- (k) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling the person's conduct due to the influence of a narcotic, anesthetic, alcohol, or other substance, or due to any act committed upon that person without the person's consent.
- (l) "Nonpublic school" means a private, denominational, or parochial elementary or secondary school.
- (m) "Physically helpless" means that a person is unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to an act.
- (n) "Personal injury" means bodily injury, disfigurement, mental anguish, chronic pain, pregnancy, disease, or loss or impairment of a sexual or reproductive organ.
- (o) "Public school" means a public elementary or secondary educational entity or agency that is established under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.
- (p) "School district" means a general powers school district organized under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.
- (q) "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:
 - (i) Revenge.
 - (ii) To inflict humiliation.
 - (iii) Out of anger.
- (r) "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.
- (s) "Victim" means the person alleging to have been subjected to criminal sexual conduct.

History: Add. 1974, Act 266, Eff. Apr. 1, 1975 ;-- Am. 1983, Act 158, Eff. Mar. 29, 1984 ;-- Am. 2000, Act 505, Eff. Mar. 28, 2001 ;--

Am. 2002, Act 714, Eff. Apr. 1, 2003 ;-- Am. 2006, Act 171, Eff. Aug. 28, 2006 ;-- Am. 2007, Act 163, Eff. July 1, 2008 ;-- Am. 2014, Act 64, Imd. Eff. Mar. 28, 2014 ;-- Am. 2023, Act 65, Eff. Oct. 10, 2023

Constitutionality: The provision in the criminal sexual conduct statute which permits elevation of a criminal sexual conduct offense from a lesser to a higher degree on the basis of proof of personal injury to the victim in the form of mental anguish is not unconstitutionally vague. *People v Petrella*, 424 Mich 221; 380 NW2d 11 (1985).

Compiler's Notes: Section 2 of Act 266 of 1974 provides: "Saving clause." "All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or begun before the effective date of this amendatory act."