

## **Michigan Criminal Statutes**

### **Domestic Violence (Includes Dating Violence): MCLA § 750.81**

Domestic violence is defined as the assault or assault and battery of:

- A spouse or former spouse
- An individual with whom the assailant has or has had a dating relationship
- An individual with whom the assailant has had a child in common
- A resident or former resident of the assailant's household

The term "dating relationship" is defined as frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

### **Aggravated Domestic Violence (Includes Dating Violence): MCLA § 750.81a**

Aggravated domestic violence is defined as the assault without a weapon, inflicting serious or aggravated injury (without intent to commit murder or inflict great bodily harm less than murder) of any of the following individuals:

- A spouse or former spouse
- An individual with whom the assailant has or has had a dating relationship
- An individual with whom the assailant has had a child in common
- A resident or former resident of the assailant's household

The term "dating relationship" is defined as frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

### **Stalking: MCLA § 750.411h**

Stalking is defined as a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

"Course of conduct" means a pattern of conduct composed of a series of 2 or more separate noncontinuous acts evidencing a continuity of purpose.

"Emotional distress" means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

“Harassment” means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

“Unconsented contact” means any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:

- Following or appearing within the sight of that individual.
- Approaching or confronting that individual in a public place or on private property.
- Appearing at that individual's workplace or residence.
- Entering onto or remaining on property owned, leased, or occupied by that individual.
- Contacting that individual by telephone.
- Sending mail or electronic communications to that individual.
- Placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.

#### **Aggravated Stalking: MCLA § 750.411i**

An individual who engages in stalking is guilty of aggravated stalking if the violation involves any of the following circumstances:

- At least 1 of the actions constituting the offense is in violation of a restraining order and the individual has received actual notice of that restraining order or at least 1 of the actions is in violation of an injunction or preliminary injunction.
- At least 1 of the actions constituting the offense is in violation of a condition of probation, a condition of parole, a condition of pretrial release, or a condition of release on bond pending appeal.
- The course of conduct includes the making of 1 or more credible threats against the victim, a member of the victim's family, or another individual living in the same household as the victim.
- The individual has been previously convicted of a violation of this section or section 411h.

“Credible threat” means a threat to kill another individual or a threat to inflict physical injury upon another individual that is made in any manner or in any context that causes the individual hearing or receiving the threat to reasonably fear for his or her safety or the safety of another individual.

## **Criminal Sexual Conduct (Sexual Assault): MCLA § 750.520**

Michigan criminal laws regarding sexual assault are separated into four degrees of criminal sexual conduct. For each of those criminal offenses, the following definitions apply:

“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:

- Revenge
- To inflict humiliation
- Out of anger.

“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.

“Intimate parts” includes the primary genital area, groin, inner thigh, buttock, or breast of a human being.

“Physically helpless” means that a person is unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to an act.

A chart summarizing the four degrees of criminal sexual conduct is included below.

## CRIMINAL SEXUAL CONDUCT OFFENSES

	CSC 1 <sup>st</sup> Degree	CSC 2 <sup>nd</sup> Degree	CSC 3 <sup>rd</sup> Degree	CSC 4 <sup>th</sup> Degree	Assault with Intent to Commit CSC Involving Penetration	Assault with Intent to Commit CSC 2 <sup>nd</sup> Degree (contact)
Elements of Offense	<p><b>Sexual penetration <u>and</u></b> if any one of the following circumstances exist:</p> <ol style="list-style-type: none"> <li>Victim is one of the following:               <ol style="list-style-type: none"> <li>under 13;</li> <li>13-15 (inclusive) <b>and</b> <ul style="list-style-type: none"> <li>- a household member;</li> <li>- related by blood or affinity to the 4<sup>th</sup> degree;</li> <li>- actor in a position of authority;</li> <li>- actor is a teacher, substitute teacher, or administrator in school or school district;</li> <li>- actor is an employee or contractor of school or school district; actor is a volunteer; or actor is government employee who provides services to school or school district; or</li> <li>- actor is an employee, contractor, or volunteer of a child care organization; or actor is a person licensed to operate a foster care home</li> </ul> </li> </ol> </li> <li>Involves the commission of any other felony.</li> <li>Actor aided and abetted by one or more persons <b>and</b> victim is one of the following:               <ol style="list-style-type: none"> <li>mentally incapable;</li> <li>mentally incapacitated;</li> <li>physically helpless; or</li> <li>forced or coerced</li> </ol> </li> <li>Actor armed with weapon or object.</li> <li>Force or coercion <b>and</b> personal injury. Force includes:               <ol style="list-style-type: none"> <li>physical force or violence;</li> </ol> </li> </ol>	<p><b>Sexual contact with another person <u>and</u></b> if any of the following circumstances exist:</p> <ol style="list-style-type: none"> <li>Victim is one of the following:               <ol style="list-style-type: none"> <li>under 13;</li> <li>13-15 (inclusive) <b>and</b> <ul style="list-style-type: none"> <li>- a household member;</li> <li>- related by blood or affinity to the 4<sup>th</sup> degree;</li> <li>- actor in a position of authority;</li> <li>- actor is a teacher, substitute teacher, or administrator in school or school district;</li> <li>- actor is an employee or contractor of school or school district; actor is a volunteer; or actor is government employee who provides services to school or school district; or</li> <li>- actor is an employee, contractor, or volunteer of a child care organization; or actor is a person licensed to operate a foster care home</li> </ul> </li> </ol> </li> <li>Involves the commission of any other felony.</li> <li>Actor aided and abetted by one or more persons <b>and</b> victim is one of the following:               <ol style="list-style-type: none"> <li>mentally incapable;</li> <li>mentally incapacitated;</li> <li>physically helpless; or</li> <li>forced or coerced</li> </ol> </li> <li>Actor armed with weapon or object.</li> <li>Force or coercion <b>and</b> personal injury.</li> <li>Personal injury and victim is:</li> </ol>	<p><b>Sexual penetration <u>and</u></b> if any of the following circumstances exist:</p> <ol style="list-style-type: none"> <li>Victim is one of the following:               <ol style="list-style-type: none"> <li>13-15 (inclusive);</li> <li>mentally incapable;</li> <li>mentally incapacitated;</li> <li>physically helpless;</li> <li>related to the actor by blood or affinity to the 3<sup>rd</sup> degree</li> </ol> </li> <li>Force or coercion</li> <li>Victim is 16-17 (inclusive) <b>and</b> a student and either of the following applies:               <ol style="list-style-type: none"> <li>actor is a teacher, substitute teacher, or administrator in school or school district;</li> <li>actor is an employee or contractor of school or school district; actor is a volunteer; or actor is government employee who provides services to school or school district</li> </ol> </li> <li>Victim is 16-25 (inclusive) and receiving special education services <b>and</b> any of the following apply:               <ol style="list-style-type: none"> <li>actor is a teacher, substitute teacher, or administrator in school or school district; or</li> <li>actor is a volunteer or government employee who provides services to</li> </ol> </li> </ol>	<p><b>Sexual contact <u>and</u></b> if any of the following circumstances exist:</p> <ol style="list-style-type: none"> <li>Victim is one of the following:               <ol style="list-style-type: none"> <li>13-15 (inclusive), and the actor is more than 5 years older than the victim;</li> <li>mentally incapable;</li> <li>mentally incapacitated;</li> <li>physically helpless</li> <li>related to the actor by blood or affinity to the 3<sup>rd</sup> degree</li> <li>client or patient of a mental health professional (contact must occur during or within 2 years of termination of relationship)</li> </ol> </li> <li>Force or coercion</li> <li>Victim is 16-17 (inclusive) <b>and</b> a student and either of the following applies:               <ol style="list-style-type: none"> <li>actor is a teacher, substitute teacher, or administrator in school or school district;</li> <li>actor is an employee or contractor of school or school district; actor is a volunteer; or actor is government employee who provides services to school or school district</li> </ol> </li> <li>Victim is 16-25 (inclusive) and receiving special education services <b>and</b> any of the following apply:</li> </ol>	<p>Commission of assault with intent to commit sexual penetration.</p>	<p>The following elements are needed to establish assault with intent to commit CSC second degree:</p> <ol style="list-style-type: none"> <li>Assault</li> <li><i>Intent</i> to commit sexual contact for the purpose of sexual arousal or sexual gratification (actual touching is not required).</li> <li>Actor must have intended to touch victim's genital area, groin, inner thigh, buttock, breast, or clothing covering those areas, or actor must have specifically intended to have the complainant touch such area on him.</li> <li>Aggravating circumstance i.e. force or coercion</li> </ol>

	<p>b. coercion by threat of force;  c. coercion by threat of future retaliation;  d. medical examination or treatment for unethical reasons; or  e. overcome victim through concealment or surprise</p> <p>6. Personal injury and victim is:  a. mentally incapable  b. mentally incapacitated; or  c. physically helpless</p> <p>7. Victim is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless and any of the following:  a. related by blood or affinity to the 4<sup>th</sup> degree; or  b. actor in a position of authority</p>	<p>a. mentally incapable;  b. mentally incapacitated; or  c. physically helpless</p> <p>7. Victim is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless <u>and</u> any of the following:  a. related by blood or affinity to the 4<sup>th</sup> degree; or  b. actor in a position of authority</p> <p>8. Victim under jurisdiction of department of correction and actor is an employee, contractor, or volunteer with department of corrections.</p> <p>9. Victim under jurisdiction of department of corrections and actor is an employee, contractor, or volunteer with a private vendor that operates a youth facility.</p> <p>10. Victim is a prisoner or probationer and actor is an employee, contractor, or volunteer with department of corrections</p> <p>11. Victim detained or committed to a facility and actor is an employee, contractor, or volunteer with the victim's facility.</p>	<p>school or school district</p> <p>5. Actor is an employee, contractor, or volunteer of a child care organization; or actor is a person licensed to operate a foster care home</p>	<p>a. actor is a teacher, substitute teacher, or administrator in school or school district; or  b. actor is a volunteer or government employee who provides services to school or school district</p> <p>5. Actor is an employee, contractor, or volunteer of a child care organization; or actor is a person licensed to operate a foster care home</p>		
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