

Sex Crimes: Definitions and Penalties Michigan

Last Updated: April 2023

Criminal Sexual Conduct in the First Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none">• Sexual penetration with another person and if any of the following circumstances exists:<ul style="list-style-type: none">• That other person is under 13 years of age;• That other person is at least 13 but less than 16 years of age and any of the following:<ul style="list-style-type: none">• The actor is a member of the same household as the victim;• The actor is related to the victim by blood or affinity to the fourth degree;• The actor is in a position of authority over the victim and used this authority to coerce the victim to submit;• The actor is a teacher, substitute teacher, or administrator of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled;• The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person; or• The actor is an employee, contractual service provider, or volunteer of a child care organization, or a person licensed to operate a foster family home or a foster family group home in which that other person is a resident, and the sexual penetration occurs during the period of that other person's residency;• Sexual penetration occurs under circumstances involving the commission of any other felony;• The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:<ul style="list-style-type: none">• The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless;• The actor uses force or coercion to accomplish the sexual penetration;• The actor is armed with a weapon, or any article used or fashioned in a manner to lead a person to reasonably believe it to be a weapon;• The actor causes personal injury to the victim and force or coercion is used to accomplish the sexual penetration.• The actor causes personal injury to the victim, and the actor knows or has reason to know that the

	<p>victim is mentally incapable, mentally incapacitated, or physically helpless; or</p> <ul style="list-style-type: none"> • That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following: <ul style="list-style-type: none"> • The actor is related to the victim by blood or affinity to the fourth degree; or • The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.
<p>What are the punishments for this crime?</p>	<ul style="list-style-type: none"> • Imprisonment for life or for any term of years. • For a violation that is committed by an individual 17 years of age or older against an individual less than 13 years of age by imprisonment for life or any term of years, but not less than 25 years. • For a violation that is committed by an individual 18 years of age or older against an individual less than 13 years of age, by imprisonment for life without the possibility of parole if the person was previously convicted of a violation committed against an individual less than 13 years of age or a violation of law of the United States, another state or political subdivision substantially corresponding to a violation committed against an individual less than 13 years of age. • Lifetime electronic monitoring. • The court may order a term of imprisonment imposed under this section to be served consecutively to any term of imprisonment imposed for any other criminal offense arising from the same transaction.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • “Force or coercion” includes but is not limited to: <ul style="list-style-type: none"> • When the actor overcomes the victim through the actual application of physical force or physical violence; • When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats; • When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute this threat. To retaliate” includes threats of physical punishment, kidnapping, or extortion; • When the actor engages in the medical treatment or examination of the victim in a manner or for purposes that are medically recognized as unethical or unacceptable; or • When the actor, through concealment or by the element of surprise, is able to overcome the victim. • “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. • “Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or other substance administered to that person without his or her consent, or due to any other act committed upon that person without his or her consent. • “Physically helpless” means that a person is unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to an act. • “Personal injury” means bodily injury, disfigurement, mental anguish, chronic pain, pregnancy, disease, or loss or impairment of a sexual or reproductive organ. • “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

	<p>of another person's body, but emission of semen is not required.</p> <ul style="list-style-type: none"> • This section does not require that the act forming the basis of the charge must have had as its purpose to arouse, stimulate or gratify the sexual emotions or that the act must have been done with some other sexually improper intent or purpose. <i>People v. Hernandez</i>, 264 N.W.2d 343, 80 Mich. App. 465 (1978).
Statutory citation(s):	<ul style="list-style-type: none"> • Mich. Comp. Laws Ann. § 750.520b

Criminal Sexual Conduct in the Second Degree

Question	Answer
How is it defined?	<p>Sexual contact with another person when any of the following circumstances exists:</p> <ul style="list-style-type: none"> • That other person is under 13 years of age; • That other person is at least 13 but less than 16 years of age and any of the following: <ul style="list-style-type: none"> • The actor is a member of the same household as the victim; • The actor is related by blood or affinity to the fourth degree to the victim; • The actor is in a position of authority over the victim and the actor used this authority to coerce the victim to submit; • The actor is a teacher, substitute teacher, or administrator of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled; • The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person; or • The actor is an employee, contractual service provider, or volunteer of a child care organization, or a person licensed to operate a foster family home or a foster family group home in which that other person is a resident and the sexual contact occurs during the period of that other person's residency; • Sexual contact occurs under circumstances involving the commission of any other felony; • The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists: <ul style="list-style-type: none"> • The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless; or • The actor uses force or coercion to accomplish the sexual contact; • The actor is armed with a weapon, or any article used or fashioned in a manner to lead a person to

	<p>reasonably believe it to be a weapon;</p> <ul style="list-style-type: none"> • The actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact; • The actor causes personal injury to the victim and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless; • That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following: <ul style="list-style-type: none"> • The actor is related to the victim by blood or affinity to the fourth degree; or • The actor is in a position of authority over the victim and used this authority to coerce the victim to submit; • That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or a volunteer with, the department of corrections who knows that the other person is under the jurisdiction of the department of corrections; • That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or a volunteer with, a private vendor that operates a youth correctional facility, who knows that the other person is under the jurisdiction of the department of corrections; • That other person is a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program and the actor is an employee or a contractual employee of or a volunteer with the county or the department of corrections who knows that the other person is under the county's jurisdiction; or • The actor knows or has reason to know that a court has detained the victim in a facility while the victim is awaiting a trial or hearing, or committed the victim to a facility as a result of the victim having been found responsible for committing an act that would be a crime if committed by an adult, and the actor is an employee or contractual employee of, or a volunteer with, the facility in which the victim is detained or to which the victim was committed.
<p>What are the punishments for this crime?</p>	<ul style="list-style-type: none"> • Imprisonment for not more than 15 years. • In addition the court shall sentence the defendant to lifetime electronic monitoring if the violation involved sexual contact committed by an individual 17 years of age or older against an individual less than 13 years of age.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • “Force or coercion” includes but is not limited to: <ul style="list-style-type: none"> • When the actor overcomes the victim through the actual application of physical force or physical violence; • When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats; • When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute this threat. To retaliate” includes threats of physical punishment, kidnapping, or extortion; • When the actor engages in the medical treatment or examination of the victim in a manner or for purposes that are medically recognized as unethical or unacceptable; or • When the actor, through concealment or by the element of surprise, is able to overcome the victim.

	<ul style="list-style-type: none"> • “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. • “Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or other substance administered to that person without his or her consent, or due to any other act committed upon that person without his or her consent. • “Physically helpless” means that a person is unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to an act. • “Personal injury” means bodily injury, disfigurement, mental anguish, chronic pain, pregnancy, disease, or loss or impairment of a sexual or reproductive organ. • “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: <ul style="list-style-type: none"> • Revenge; • To inflict humiliation; or • Out of anger.
Statutory citation(s):	<ul style="list-style-type: none"> • Mich. Comp. Laws Ann. § 750.520c

Sodomy

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Any person who shall commit the abominable and detestable crime against nature either with mankind or with any animal.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Felony, punishable by imprisonment in the state prison not more than 15 years. • If such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.
Anything else I should know?	<ul style="list-style-type: none"> • Any state laws that outright prohibit sodomy are unconstitutional under <i>Lawrence v. Texas</i>, 539 U.S. 588 (2003).
Statutory citation(s):	<ul style="list-style-type: none"> • Mich. Comp. Laws Ann. § 750.158

Criminal Sexual Conduct in the Third Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none">• Sexual penetration with another person when any of the following circumstances exist:<ul style="list-style-type: none">• That other person is at least 13 years of age and under 16 years of age;• Force or coercion is used to accomplish the sexual penetration;• The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless;• That other person is related to the actor by blood or affinity to the third degree and the sexual penetration occurs under circumstances not otherwise prohibited. It is an affirmative defense to a prosecution under this subdivision that the other person was in a position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation;• That other person is at least 16 years of age but less than 18 years of age and a student at a public school or nonpublic school, and either of the following applies:<ul style="list-style-type: none">• The actor is a teacher, substitute teacher, or administrator of that public school, nonpublic school, school district, or intermediate school district. This subparagraph does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time of the alleged violation; or• The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person;• That other person is at least 16 years old but less than 26 years of age and is receiving special education services, and either of the following applies:<ul style="list-style-type: none">• The actor is a teacher, substitute teacher, administrator, employee, or contractual service provider of the public school, nonpublic school, school district, or intermediate school district from which that other person receives the special education services. This subparagraph does not apply if both persons are lawfully married to each other at the time of the alleged violation; or• The actor is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States

	<p>assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person; or</p> <ul style="list-style-type: none"> • The actor is an employee, contractual service provider, or volunteer of a child care organization, or a person licensed to operate a foster family home or a foster family group home, in which that other person is a resident, that other person is at least 16 years of age, and the sexual penetration occurs during that other person's residency.
<p>What are the punishments for this crime?</p>	<ul style="list-style-type: none"> • Felony punishable by imprisonment for not more than 15 years.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • “Force or coercion” includes but is not limited to: <ul style="list-style-type: none"> • When the actor overcomes the victim through the actual application of physical force or physical violence; • When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats; • When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute this threat. To retaliate” includes threats of physical punishment, kidnapping, or extortion; • When the actor engages in the medical treatment or examination of the victim in a manner or for purposes that are medically recognized as unethical or unacceptable; or • When the actor, through concealment or by the element of surprise, is able to overcome the victim. • “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. • “Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or other substance administered to that person without his or her consent, or due to any other act committed upon that person without his or her consent. • “Physically helpless” means that a person is unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to an act. • “Personal injury” means bodily injury, disfigurement, mental anguish, chronic pain, pregnancy, disease, or loss or impairment of a sexual or reproductive organ. • “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.
<p>Statutory citation(s):</p>	<ul style="list-style-type: none"> • Mich. Comp. Laws Ann. § 750.520d

Criminal Sexual Conduct in the Fourth Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Sexual contact with another person when any of the following circumstances exist: <ul style="list-style-type: none"> • That other person is at least 13 years of age but less than 16 years of age, and the actor is 5 or more years older than that other person; • Force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the following circumstances: <ul style="list-style-type: none"> • When the actor overcomes the victim through the actual application of physical force or physical violence; • When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute that threat; • When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute that threat. As used in this subparagraph, “to retaliate” includes threats of physical punishment, kidnapping, or extortion; • When the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable; or • When the actor achieves the sexual contact through concealment or by the element of surprise; • The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless; • That other person is related to the actor by blood or affinity to the third degree and the sexual contact occurs under circumstances not otherwise prohibited. It is an affirmative defense to a prosecution under this subdivision that the other person was in a position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation; • The actor is a mental health professional and the sexual contact occurs during or within 2 years after the period in which the victim is his or her client or patient and not his or her spouse. The consent of the victim is not a defense to a prosecution under this subdivision. A prosecution under this subsection shall not be used as evidence that the victim is mentally incompetent; • That other person is at least 16 years of age but less than 18 years of age and a student at a public school or nonpublic school, and either of the following applies: <ul style="list-style-type: none"> • The actor is a teacher, substitute teacher, or administrator of that public school, nonpublic school, school district, or intermediate school district. This subparagraph does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time

	<p>of the alleged violation; or</p> <ul style="list-style-type: none"> • The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person; • That other person is at least 16 years old but less than 26 years of age and is receiving special education services, and either of the following applies: <ul style="list-style-type: none"> • The actor is a teacher, substitute teacher, administrator, employee, or contractual service provider of the public school, nonpublic school, school district, or intermediate school district from which that other person receives the special education services. This subparagraph does not apply if both persons are lawfully married to each other at the time of the alleged violation; or • The actor is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person; or • The actor is an employee, contractual service provider, or volunteer of a child care organization, or a person licensed to operate a foster family home or a foster family group home, in which that other person is a resident, that other person is at least 16 years of age, and the sexual contact occurs during that other person's residency.
<p>What are the punishments for this crime?</p>	<ul style="list-style-type: none"> • Criminal sexual conduct in the fourth degree is a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than \$500, or both.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • “Force or coercion” includes but is not limited to: <ul style="list-style-type: none"> • When the actor overcomes the victim through the actual application of physical force or physical violence; • When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats; • When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute this threat. To retaliate” includes threats of physical punishment, kidnapping, or extortion; • When the actor engages in the medical treatment or examination of the victim in a manner or for purposes that are medically recognized as unethical or unacceptable; or • When the actor, through concealment or by the element of surprise, is able to overcome the victim. • “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.

	<ul style="list-style-type: none"> • “Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or other substance administered to that person without his or her consent, or due to any other act committed upon that person without his or her consent. • “Physically helpless” means that a person is unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to an act. • “Personal injury” means bodily injury, disfigurement, mental anguish, chronic pain, pregnancy, disease, or loss or impairment of a sexual or reproductive organ. • “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: <ul style="list-style-type: none"> • Revenge; • To inflict humiliation; or • Out of anger.
Statutory citation(s):	<ul style="list-style-type: none"> • Mich. Comp. Laws Ann. § 750.520e

Statutory Rape

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Michigan does not use the term “statutory rape.” But it does penalize various sex acts with minors.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Criminal sexual conduct in the first degree between someone 17 and over and someone under 13 is punishable by imprisonment from 25 years to life. • Criminal sexual conduct in the first degree between someone 18 and over and someone under 13 is punishable by imprisonment for life without the possibility of parole if the person was previously convicted of certain other serious crimes committed against an individual less than 13 years of age or a violation of law of the United States, another state or political subdivision substantially corresponding to a violation of this section or certain other sections committed against an individual less than 13 years of age. • For conduct punishable as criminal sexual conduct in the second degree against a minor between 13 and 16, an offender can be imprisoned for up to 15 years. • Sexual conduct in the third degree with a minor between 13 and 16 can result in up to 15 years imprisonment. • Sexual conduct in the fourth degree with a minor between 13 and 16 and who is at least 5 years younger than the offender can be punished with up to two years imprisonment or a fine of \$500, or both.

Anything else I should know?	<ul style="list-style-type: none">• Reasonable mistake of age is not a defense in prosecution for third-degree criminal sexual conduct involving a 13 to 16-year-old, and such defense is not constitutionally compelled. <i>People v. Cash</i>, 351 N.W.2d 822, 419 Mich. 230 (1984).
Statutory citation(s):	<ul style="list-style-type: none">• Mich. Comp. Laws Ann. § 750.520b-e