

HOUSE BILL NO. 5682

January 25, 2022, Introduced by Rep. Mueller and referred to the Committee on Government Operations.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 81, 81a, and 82 (MCL 750.81, 750.81a, and
750.82), section 81 as amended by 2016 PA 87, section 81a as
amended by 2012 PA 366, and section 82 as amended by 1994 PA 158.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81. (1) Except as otherwise provided in this section, a
2 person who assaults or assaults and batters an individual, if no
3 other punishment is prescribed by law, is guilty of a misdemeanor
4 punishable by imprisonment for not more than 93 days or a fine of
5 not more than \$500.00, or both. **If the victim of a violation under**

1 this subsection is a member of emergency room personnel and the
2 violation occurs while the victim is performing his or her duties
3 as a member of emergency room personnel, the person is guilty of a
4 misdemeanor punishable by imprisonment for not more than 93 days or
5 a fine of not more than \$1,000.00, or both.

6 (2) Except as provided in subsection (3), (4), or (5), an
7 individual who assaults or assaults and batters his or her spouse
8 or former spouse, an individual with whom he or she has or has had
9 a dating relationship, an individual with whom he or she has had a
10 child in common, or a resident or former resident of his or her
11 household, is guilty of a misdemeanor punishable by imprisonment
12 for not more than 93 days or a fine of not more than \$500.00, or
13 both.

14 (3) An individual who assaults or assaults and batters an
15 individual who is pregnant and who knows the individual is pregnant
16 is guilty of a misdemeanor punishable by imprisonment for not more
17 than 93 days or a fine of not more than \$500.00, or both.

18 (4) An individual who commits an assault or an assault and
19 battery in violation of subsection (2) or (3), and who has
20 previously been convicted of assaulting or assaulting and battering
21 an individual described in either subsection (2) or subsection (3)
22 under any of the following, is guilty of a misdemeanor punishable
23 by imprisonment for not more than 1 year or a fine of not more than
24 \$1,000.00, or both:

25 (a) This section or an ordinance of a political subdivision of
26 this state substantially corresponding to this section.

27 (b) Section 81a, 82, 83, 84, or 86.

28 (c) A law of another state or an ordinance of a political
29 subdivision of another state substantially corresponding to this

1 section or section 81a, 82, 83, 84, or 86.

2 (5) An individual who commits an assault or an assault and
3 battery in violation of subsection (2) or (3), and who has 2 or
4 more previous convictions for assaulting or assaulting and
5 battering an individual described in either subsection (2) or
6 subsection (3) under any of the following, is guilty of a felony
7 punishable by imprisonment for not more than 5 years or a fine of
8 not more than \$5,000.00, or both:

9 (a) This section or an ordinance of a political subdivision of
10 this state substantially corresponding to this section.

11 (b) Section 81a, 82, 83, 84, or 86.

12 (c) A law of another state or an ordinance of a political
13 subdivision of another state substantially corresponding to this
14 section or section 81a, 82, 83, 84, or 86.

15 (6) This section does not apply to an individual using
16 necessary reasonable physical force in compliance with section 1312
17 of the revised school code, 1976 PA 451, MCL 380.1312.

18 (7) As used in this section: ~~"dating"~~

19 (a) **"Dating relationship"** means frequent, intimate
20 associations primarily characterized by the expectation of
21 affectional involvement. This term does not include a casual
22 relationship or an ordinary fraternization between 2 individuals in
23 a business or social context.

24 (b) **"Emergency room personnel"** includes, but is not limited
25 to, physicians, nurses, intake clerks, and any other individuals
26 employed in the emergency department or emergency room of a
27 hospital licensed under article 17 of the public health code, 1978
28 PA 368, MCL 333.20101 to 333.22260.

29 Sec. 81a. (1) Except as otherwise provided in this section, a

1 person who assaults an individual without a weapon and inflicts
2 serious or aggravated injury upon that individual without intending
3 to commit murder or to inflict great bodily harm less than murder
4 is guilty of a misdemeanor punishable by imprisonment for not more
5 than 1 year or a fine of not more than \$1,000.00, or both. **If the**
6 **victim of a violation under this subsection is a member of**
7 **emergency room personnel and the violation occurs while the victim**
8 **is performing his or her duties as a member of emergency room**
9 **personnel, the person is guilty of a misdemeanor punishable by**
10 **imprisonment for not more than 1 year or a fine of not more than**
11 **\$2,000.00, or both.**

12 (2) Except as provided in subsection (3), an individual who
13 assaults his or her spouse or former spouse, an individual with
14 whom he or she has or has had a dating relationship, an individual
15 with whom he or she has had a child in common, or a resident or
16 former resident of the same household without a weapon and inflicts
17 serious or aggravated injury upon that individual without intending
18 to commit murder or to inflict great bodily harm less than murder
19 is guilty of a misdemeanor punishable by imprisonment for not more
20 than 1 year or a fine of not more than \$1,000.00, or both.

21 (3) An individual who commits an assault and battery in
22 violation of subsection (2), and who has 1 or more previous
23 convictions for assaulting or assaulting and battering his or her
24 spouse or former spouse, an individual with whom he or she has or
25 has had a dating relationship, an individual with whom he or she
26 has had a child in common, or a resident or former resident of the
27 same household, in violation of any of the following, is guilty of
28 a felony punishable by imprisonment for not more than 5 years or a
29 fine of not more than \$5,000.00, or both:

1 (a) This section or an ordinance of a political subdivision of
2 this state substantially corresponding to this section.

3 (b) Section 81, 82, 83, 84, or 86.

4 (c) A law of another state or an ordinance of a political
5 subdivision of another state substantially corresponding to this
6 section or section 81, 82, 83, 84, or 86.

7 (4) As used in this section: ~~"dating~~

8 (a) **"Dating** relationship" means frequent, intimate
9 associations primarily characterized by the expectation of
10 affectional involvement. This term does not include a casual
11 relationship or an ordinary fraternization between 2 individuals in
12 a business or social context.

13 (b) **"Emergency room personnel"** includes, but is not limited
14 to, physicians, nurses, intake clerks, and any other individuals
15 employed in the emergency department or emergency room of a
16 hospital licensed under article 17 of the public health code, 1978
17 PA 368, MCL 333.20101 to 333.22260.

18 Sec. 82. (1) Except as **otherwise** provided in **this subsection**
19 **or** subsection (2), a person who assaults another person with a gun,
20 revolver, pistol, knife, iron bar, club, brass knuckles, or other
21 dangerous weapon without intending to commit murder or to inflict
22 great bodily harm less than murder is guilty of a felony punishable
23 by imprisonment for not more than 4 years or a fine of not more
24 than \$2,000.00, or both. **If the victim of a violation under this**
25 **subsection is a member of emergency room personnel and the**
26 **violation occurs while the victim is performing his or her duties**
27 **as a member of emergency room personnel, the person is guilty of a**
28 **felony punishable by imprisonment for not more than 4 years or a**
29 **fine of not more than \$4,000.00, or both.**

1 (2) A person who violates subsection (1) in a weapon free
2 school zone is guilty of a felony punishable by 1 or more of the
3 following:

4 (a) Imprisonment for not more than 4 years.

5 (b) Community service for not more than 150 hours.

6 (c) A fine of not more than \$6,000.00.

7 (3) As used in this section:

8 (a) **"Emergency room personnel" includes, but is not limited**
9 **to, physicians, nurses, intake clerks, and any other individuals**
10 **employed in the emergency department or emergency room of a**
11 **hospital licensed under article 17 of the public health code, 1978**
12 **PA 368, MCL 333.20101 to 333.22260.**

13 (b) ~~(a)~~—"School" means a public, private, denominational, or
14 parochial school offering developmental kindergarten, kindergarten,
15 or any grade from 1 through 12.

16 (c) ~~(b)~~—"School property" means a building, playing field, or
17 property used for school purposes to impart instruction to children
18 or used for functions and events sponsored by a school, except a
19 building used primarily for adult education or college extension
20 courses.

21 (d) ~~(c)~~—"Weapon free school zone" means school property and a
22 vehicle used by a school to transport students to or from school
23 property.

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