

# SENATE BILL NO. 1015

April 21, 2022, Introduced by Senators BAYER, BULLOCK, GEISS, POLEHANKI, MOSS, MCMORROW, BRINKS, CHANG, ALEXANDER and HOLLIER and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
by amending section 27c of chapter VIII (MCL 768.27c), as added by  
2006 PA 79.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 CHAPTER VIII
- 2 Sec. 27c. (1) Evidence of a statement by a declarant is
- 3 admissible if all of the following apply:
- 4 (a) The statement purports to narrate, describe, or explain

1 the infliction or threat of physical injury upon the declarant.

2 (b) The action in which the evidence is offered under this  
3 section is an offense involving domestic violence, **commercial**  
4 **sexual activity, or human trafficking.**

5 (c) The statement was made at or near the time of the  
6 infliction or threat of physical injury. Evidence of a statement  
7 made more than 5 years before the filing of the current action or  
8 proceeding is inadmissible under this section.

9 (d) The statement was made under circumstances that would  
10 indicate the statement's trustworthiness.

11 (e) The statement was made to a law enforcement officer.

12 (2) For the purpose of subsection (1)(d), circumstances  
13 relevant to the issue of trustworthiness include, but are not  
14 limited to, all of the following:

15 (a) Whether the statement was made in contemplation of pending  
16 or anticipated litigation in which the declarant was interested.

17 (b) Whether the declarant has a bias or motive for fabricating  
18 the statement, and the extent of any bias or motive.

19 (c) Whether the statement is corroborated by evidence other  
20 than statements that are admissible only under this section.

21 (3) If the prosecuting attorney intends to offer evidence  
22 under this section, the prosecuting attorney shall disclose the  
23 evidence, including the statements of witnesses or a summary of the  
24 substance of any testimony that is expected to be offered, to the  
25 defendant not less than 15 days before the scheduled date of trial  
26 or at a later time as allowed by the court for good cause shown.

27 (4) Nothing in this section shall be construed to abrogate any  
28 privilege conferred by law.

29 (5) As used in this section:

1       (a) **"Commercial sexual activity" means that term as defined in**  
2 **section 462a of the Michigan penal code, 1931 PA 328, MCL 750.462a.**

3       (b) ~~(a)~~—"Declarant" means a person who makes a statement.

4       (c) ~~(b)~~—"Domestic violence" or "offense involving domestic  
5 violence" means an occurrence of 1 or more of the following acts by  
6 a person that is not an act of self-defense:

7       (i) Causing or attempting to cause physical or mental harm to a  
8 family or household member.

9       (ii) Placing a family or household member in fear of physical  
10 or mental harm.

11       (iii) Causing or attempting to cause a family or household  
12 member to engage in involuntary sexual activity by force, threat of  
13 force, or duress.

14       (iv) Engaging in activity toward a family or household member  
15 that would cause a reasonable person to feel terrorized,  
16 frightened, intimidated, threatened, harassed, or molested.

17       (d) ~~(e)~~—"Family or household member" means any of the  
18 following:

19       (i) A spouse or former spouse.

20       (ii) An individual with whom the person resides or has resided.

21       (iii) An individual with whom the person has or has had a child  
22 in common.

23       (iv) An individual with whom the person has or has had a dating  
24 relationship. As used in this subparagraph, "dating relationship"  
25 means frequent, intimate associations primarily characterized by  
26 the expectation of affectional involvement. This term does not  
27 include a casual relationship or an ordinary fraternization between  
28 2 individuals in a business or social context.

29       (e) **"Human trafficking" means a violation of chapter LXVIIA of**

1 the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.762h.

2 (f) "Infliction or threat of physical injury" includes both of  
3 the following:

4 (i) Threatening to harm or physically restrain any individual  
5 or the creation of any scheme, plan, or pattern intended to cause  
6 an individual to believe that failure to perform an act would  
7 result in psychological, reputational, or financial harm to, or  
8 physical restraint of, any individual.

9 (ii) Facilitating or controlling an individual's access to a  
10 controlled substance, as that term is defined in section 7104 of  
11 the public health code, 1978 PA 368, MCL 333.7104, other than for a  
12 legitimate medical purpose.

13 (6) This section applies to trials and evidentiary hearings  
14 commenced or in progress on or after May 1, 2006.

15 Enacting section 1. This amendatory act does not take effect  
16 unless House Bill No. 4112 of the 101st Legislature is enacted into  
17 law.