

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 515

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

6 (b) The action in which the evidence is offered under this
7 section is an offense involving domestic violence, **or a violation**
8 **of chapter LXVII or chapter LXVIIA of the Michigan penal code, 1931**

1 **PA 328, MCL 750.448 to 750.462 and 750.462a to 750.462h.**

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

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

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

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

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

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

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

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

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

26 (5) As used in this section:

27 (a) "Declarant" means ~~a person~~ **an individual** who makes a
28 statement.

29 (b) "Domestic violence" or "offense involving domestic

1 violence" means an occurrence of 1 or more of the following acts by
2 a person that is not an act of self-defense:

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

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

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

10 (iv) Engaging in activity toward a family or household member
11 that would cause a reasonable ~~person~~**individual** to feel terrorized,
12 frightened, intimidated, threatened, harassed, or molested.

13 (c) "Family or household member" means any of the following:

14 (i) A spouse or former spouse.

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

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

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

24 (d) **"Infliction or threat of physical injury" includes all of**
25 **the following:**

26 (i) **Physically harming or restraining any individual.**

27 (ii) **Threatening to harm or physically restrain any individual**
28 **or the creation of any scheme, plan, or pattern intended to cause**
29 **an individual to believe that failure to perform an act would**

1 result in physical, psychological, reputational, or financial harm
2 to, or physical restraint of, any individual.

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

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