

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931
Chapter XX
CHILDREN

750.135 Children; exposing with intent to injure or abandon; surrender of child to emergency service provider; applicability of subsection (1); definitions.

Sec. 135.

(1) Except as provided in subsection (3), a father or mother of a child under the age of 6 years, or another individual, who exposes the child in any street, field, house, or other place, with intent to injure or wholly to abandon the child, is guilty of a felony, punishable by imprisonment for not more than 10 years.

(2) Except for a situation involving actual or suspected child abuse or child neglect, it is an affirmative defense to a prosecution under subsection (1) that the child was not more than 72 hours old and was surrendered to an emergency service provider under chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20. A criminal investigation shall not be initiated solely on the basis of a newborn being surrendered to an emergency service provider under chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20.

(3) Subsection (1) does not apply to a mother of a newborn who is surrendered under the born alive infant protection act. Subsection (1) applies to an attending physician who delivers a live newborn as a result of an attempted abortion and fails to comply with the requirements of the born alive infant protection act.

(4) As used in this section:

(a) "Emergency service provider" means a uniformed employee or contractor of a fire department, hospital, or police station when that individual is inside the premises and on duty.

(b) "Fire department" means an organized fire department as that term is defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

(c) "Hospital" means a hospital that is licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(d) "Police station" means a police station as that term is defined in section 43 of the Michigan vehicle code, 1949 PA 300, MCL 257.43.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.135 ;-- Am. 2000, Act 233, Eff. Jan. 1, 2001 ;-- Am. 2002, Act 689, Eff. Mar. 31, 2003

Compiler's Notes: Enacting section 1 of Act 233 of 2000 provides: "Enacting section 1. Section 135 of the Michigan penal code, 1931 PA 328, MCL 750.135, as amended by this amendatory act, does not apply to a violation of that section committed before the effective date of this amendatory act."

Former Law: See section 31 of Ch. 153 of R.S. 1846, being CL 1857, § 5741; CL 1871, § 7540; How., § 9105; CL 1897, § 11500; CL 1915, § 15222; CL 1929, § 16738; and Act 200 of 1875.

750.135a Leaving child unattended in vehicle; prohibition; violation; definitions.

Sec. 135a.

(1) A person who is responsible for the care or welfare of a child shall not leave that child unattended in a vehicle for a period of time that poses an unreasonable risk of harm or injury to the child or under circumstances that pose an unreasonable risk of harm or injury to the child.

(2) A person who violates this section is guilty of a crime as follows:

(a) Except as otherwise provided in subdivisions (b) to (d), the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(b) If the violation results in physical harm other than serious physical harm to the child, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(c) If the violation results in serious physical harm to the child, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$5,000.00, or both.

(d) If the violation results in the death of the child, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(3) As used in this section:

(a) "Child" means an individual less than 6 years of age.

(b) "Physical harm" and "serious physical harm" mean those terms as defined in section 136b.

(c) "Unattended" means alone or without the supervision of an individual 13 years of age or older who is not legally incapacitated.

(d) "Vehicle" means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

History: Add. 2008, Act 519, Eff. Apr. 1, 2009

750.136 Labia majora or labia minor or clitoris; surgical procedure prohibited; exceptions; violation as felony; penalty; violation of law arising from same transaction.

Sec. 136.

(1) A person shall not knowingly circumcise, excise, or infibulate the whole or any part of the labia majora or labia minora or clitoris of another person who is less than 18 years of age.

(2) A surgical operation is not a violation of this section if the operation is either of the following:

(a) Necessary to the health of the person on whom it is performed and is performed by a person licensed to perform that operation under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(b) Performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed to perform that operation under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(3) A person shall not knowingly facilitate a violation of subsection (1).

(4) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 15 years.

(5) It is not a defense to prosecution under this section that the person on whom the operation is performed, or any other person, believes that the operation is required as a matter of custom or ritual, or that the person on whom the operation is performed, or that person's parent or guardian, consented to the operation.

(6) A violation of this section by a person licensed under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, is grounds for permanent revocation of that license.

(7) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of this section.

History: Add. 2017, Act 68, Eff. Oct. 9, 2017 ;-- Add. 2017, Act 70, Eff. Oct. 9, 2017

Compiler's Notes: Former MCL 750.136, which pertained to cruelty of children, was repealed by Act 251 of 1988, Eff. Sept. 1, 1988.

750.136a Transporting person for conduct violating MCL 750.136; felony; penalty; violation arising out of same transaction.

Sec. 136a.

(1) A person shall not knowingly transport a person from this state for the purpose of conduct with regard to that person that would be a violation of section 136 if the conduct occurred in this state.

(2) A person shall not knowingly facilitate a violation of subsection (1).

(3) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 15 years.

(4) It is not a defense to prosecution under this section that the person on whom the operation is performed, or any other person, believes that the operation is required as a matter of custom or ritual, or that the person on whom the operation is performed, or that person's parent or guardian, consented to the operation.

(5) A violation of this section by a person licensed under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, is grounds for permanent revocation of that license.

(6) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of this section.

History: Add. 2017, Act 69, Eff. Oct. 9, 2017 ;-- Add. 2017, Act 71, Eff. Oct. 9, 2017

Compiler's Notes: Former MCL 750.136a, which pertained to torturing of children, was repealed by Act 251 of 1988, Eff. Sept. 1,

750.136b Definitions; child abuse; degrees; penalties; exception; affirmative defense; enhanced sentence; "prior conviction" defined.

Sec. 136b.

(1) As used in this section:

(a) "Child" means a person who is less than 18 years of age and is not emancipated by operation of law as provided in section 4 of 1968 PA 293, MCL 722.4.

(b) "Cruel" means brutal, inhuman, sadistic, or that which torments.

(c) "Omission" means a willful failure to provide food, clothing, or shelter necessary for a child's welfare or willful abandonment of a child.

(d) "Person" means a child's parent or guardian or any other person who cares for, has custody of, or has authority over a child regardless of the length of time that a child is cared for, in the custody of, or subject to the authority of that person.

(e) "Physical harm" means any injury to a child's physical condition.

(f) "Serious physical harm" means any physical injury to a child that seriously impairs the child's health or physical well-being, including, but not limited to, brain damage, a skull or bone fracture, subdural hemorrhage or hematoma, dislocation, sprain, internal injury, poisoning, burn or scald, or severe cut.

(g) "Serious mental harm" means an injury to a child's mental condition or welfare that is not necessarily permanent but results in visibly demonstrable manifestations of a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(2) A person is guilty of child abuse in the first degree if the person knowingly or intentionally causes serious physical harm or serious mental harm to a child. Child abuse in the first degree is a felony punishable by imprisonment for life or any term of years.

(3) A person is guilty of child abuse in the second degree if any of the following apply:

(a) The person's omission causes serious physical harm or serious mental harm to a child or if the person's reckless act causes serious physical harm or serious mental harm to a child.

(b) The person knowingly or intentionally commits an act likely to cause serious physical or mental harm to a child regardless of whether harm results.

(c) The person knowingly or intentionally commits an act that is cruel to a child regardless of whether harm results.

(d) The person or a licensee, as licensee is defined in section 1 of 1973 PA 116, MCL 722.111, violates section 15(2) of 1973 PA 116, MCL 722.125.

(4) Child abuse in the second degree is a felony punishable by imprisonment as follows:

(a) For a first offense, not more than 10 years.

(b) For an offense following a prior conviction, not more than 20 years.

(5) A person is guilty of child abuse in the third degree if any of the following apply:

(a) The person knowingly or intentionally causes physical harm to a child.

(b) The person knowingly or intentionally commits an act that under the circumstances poses an unreasonable risk of harm or injury to a child, and the act results in physical harm to a child.

(6) Child abuse in the third degree is a felony punishable by imprisonment as follows:

(a) For a first offense, not more than 2 years.

(b) For an offense following a prior conviction, not more than 5 years.

(7) A person is guilty of child abuse in the fourth degree if any of the following apply:

(a) The person's omission or reckless act causes physical harm to a child.

(b) The person knowingly or intentionally commits an act that under the circumstances poses an unreasonable risk of harm or injury to a child, regardless of whether physical harm results.

(8) Child abuse in the fourth degree is a crime punishable as follows:

(a) For a first offense, a misdemeanor punishable by imprisonment for not more than 1 year.

(b) For an offense following a prior conviction, a felony punishable by imprisonment for not more than 2 years.

(9) This section does not prohibit a parent or guardian, or other person permitted by law or authorized by the parent or guardian, from taking steps to reasonably discipline a child, including the use of reasonable force.

(10) It is an affirmative defense to a prosecution under this section that the defendant's conduct involving the child was a reasonable response to an act of domestic violence in light of all the facts and circumstances known to

the defendant at that time. The defendant has the burden of establishing the affirmative defense by a preponderance of the evidence. As used in this subsection, "domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(11) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions must be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.

(12) As used in this section, "prior conviction" means a violation of this section or a violation of a law of another state substantially corresponding to this section.

History: Add. 1988, Act 251, Eff. Sept. 1, 1988 ;-- Am. 1999, Act 273, Eff. Apr. 3, 2000 ;-- Am. 2008, Act 577, Eff. Apr. 1, 2009 ;-- Am. 2012, Act 194, Eff. July 1, 2012 ;-- Am. 2016, Act 488, Eff. Apr. 6, 2017 ;-- Am. 2020, Act 49, Eff. June 1, 2020

Compiler's Notes: Section 4 of Act 251 of 1988 provides: "All proceedings pending and liabilities existing at the time this amendatory act takes effect are saved and may be prosecuted according to the law in force when they are commenced pursuant to section 4a of chapter 1 of the Revised Statutes of 1846, being section 8.4a of the Michigan Compiled Laws." Enacting section 1 of Act 194 of 2012 provides: "Enacting section 1. This amendatory act shall be known and may be cited as "Dominick's Law"."

750.136c Transfer or acquisition of legal or physical custody of individual; prohibited conduct; exceptions; violation as felony; penalty.

Sec. 136c.

(1) A person shall not transfer or attempt to transfer the legal or physical custody of an individual to another person for money or other valuable consideration, except as otherwise permitted by law.

(2) A person shall not acquire or attempt to acquire the legal or physical custody of an individual for payment of money or other valuable consideration to another person, except as otherwise permitted by law.

(3) Except as provided in subsections (4) and (5), a person shall not do any of the following, whether or not the person receives money or other valuable consideration for doing so:

(a) Transfer or attempt to transfer the legal or physical custody of a child with the intent to permanently divest a parent of parental responsibility, except by order of a court of competent jurisdiction.

(b) Arrange for or assist in the permanent transfer, adoption, adoptive placement, or any other permanent physical placement of a child, except for the performance of adoption activities under 1973 PA 116, MCL 722.111 to 722.128, in the performance of the person's duties.

(c) Assist, aid, abet, or conspire in the commission of an act described in subdivision (a) or (b).

(4) Subsection (3) does not apply to services provided by an adoption attorney relating to a court supervised adoption proceeding under chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, or to an adoption attorney providing services under any of the circumstances described under subsection (5).

(5) Subsection (3) does not apply to the placement of a child under 1 or more of the following conditions:

(a) With a relative, a child placing agency, or the department of health and human services.

(b) By a child placing agency or the department of health and human services.

(c) In accordance with the interstate compact on placement of children, 1984 PA 114, MCL 3.711 to 3.717.

(d) In which the child will be returned in less than 180 days.

(e) With the specific intent that the child will be returned, that the placement benefits the child, and that it is based on the temporary needs of the family, including, but not limited to, 1 or more of the following:

(i) Respite for the child and family.

(ii) A vacation or school-sponsored activity or function.

(iii) A temporary inability of the parent or legal guardian to provide care for the child due to incarceration, military service, medical treatment, or other incapacity of the parent or legal guardian.

(f) In accordance with chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.

(6) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 20

years or a fine of not more than \$100,000.00, or both.

History: Add. 2000, Act 205, Eff. Sept. 1, 2000 ;-- Am. 2016, Act 482, Eff. Apr. 6, 2017 ;-- Am. 2020, Act 184, Eff. Jan. 6, 2021

750.136d Violation of MCL 750.136b in presence of child other than victim; penalty; laws arising out of same transaction.

Sec. 136d.

(1) A person who violates section 136b in the presence of a child other than the child who is the victim of the violation is guilty of a felony punishable as follows:

(a) If the person violates section 136b(2) in the presence of another child, by imprisonment for life or any term of years.

(b) Except as provided in subdivision (c), if the person violates section 136b(4) in the presence of another child, by imprisonment for not more than 10 years.

(c) If the person violates section 136b(4) in the presence of another child on a second or subsequent occasion, by imprisonment for not more than 20 years.

(d) If the person violates section 136b(6) in the presence of another child, by imprisonment for not more than 2 years.

(2) A charge and conviction under this section do not prohibit a person from being charged with, convicted of, or sentenced for any other violation of law arising out of the same transaction as the violation of this section.

History: Add. 2012, Act 194, Eff. July 1, 2012

Compiler's Notes: Enacting section 1 of Act 194 of 2012 provides: "Enacting section 1. This amendatory act shall be known and may be cited as "Dominick's Law"."

750.137 Purchases from minors.

Sec. 137.

A dealer in second-hand goods, junk shop keeper, peddler, rag or paper buyer, pawnbroker or hawker who purchases either directly or indirectly or by his agent or clerk, any goods, thing, article or articles from a minor without the written consent of the parent or guardian of the minor shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.137 ;-- Am. 1972, Act 32, Imd. Eff. Feb. 19, 1972

Former Law: See section 1 of Act 52 of 1889, being How., § 9354; CL 1897, § 11376; CL 1915, § 15094; and CL 1929, § 9830.

750.138 Children; legal custody; interference.

Sec. 138.

A person who in any manner interferes or attempts to interfere with the custody of any child who has been adjudged to be dependent, neglected, or delinquent pursuant to chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, after the making of an order of commitment to a state institution or otherwise, in accordance with that act and pending the actual admission and reception of the child as an inmate of the institution, school, or home to which commitment is made; and any person who entices the neglected, dependent, or delinquent child from and out of the custody of the person or persons entitled thereto under the order of the court or who shall in any way interfere or attempt to interfere with the custody; and a person who entices or

procures the child committed as aforesaid to leave and depart from any hospital or other place where the child was placed pursuant to the order of the court for the purpose of receiving medical treatment pending admission into the state institution, school, home, or other institution or place to which commitment may have been made, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.138 ;-- Am. 2002, Act 672, Eff. Mar. 31, 2003

Compiler's Notes: Act 6 of 1907, Ex. Sess., referred to in this section, was repealed by Act 288 of 1939. For present law, see MCL 712A.1 et seq.

Former Law: See sections 1 and 2 of Act 286 of 1915, being CL 1915, §§ 2026 and 2027; CL 1929, §§ 12850 and 12851.

750.139 Child under 18 years of age; confinement; commitment or trial; presence at trial of adults; transportation with adults charged with or convicted of crime; exception; violation as misdemeanor.

Sec. 139.

(1) Except as provided in subsection (2), a child under 18 years of age while under arrest, confinement, or conviction for a crime must not be placed in an apartment or cell of a prison or place of confinement with 1 or more adults who are under arrest, confinement, or conviction for a crime, be permitted to remain in any court room during the trial of adults, or be transported in a vehicle used to transport inmates with adults charged with or convicted of a crime.

(2) Subsection (1) does not apply to prisoners being transported to or from, or confined in a youth correctional facility operated by the department of corrections or a private vendor under section 20g of the corrections code of 1953, 1953 PA 232, MCL 791.220g.

(3) All cases involving the commitment or trial of children under 18 years of age for any crime or misdemeanor, before any court, must be heard and determined by the court at a suitable time, designated by the court, separate and apart from the trial of other criminal cases.

(4) A person who violates this section is guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.139 ;-- Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991 ;-- Am. 1998, Act 510, Imd. Eff. Jan. 8, 1999 ;-- Am. 2019, Act 104, Eff. Oct. 1, 2021

Former Law: See sections 1 to 3 of Act 110 of 1901, being CL 1915, §§ 7240 to 7242; and CL 1929, §§ 12816 to 12818.

750.140 Children; exhibition; employ; apprentice.

Sec. 140.

Any person having the care, custody, or control of any child under 16 years of age, who shall exhibit, use, or employ, or who shall apprentice, give away, let out, or otherwise dispose of the child to any person in or for the vocation, service, or occupation of rope or wire walking, gymnast, contortionist, rider, or acrobat, dancing, or begging in any place whatsoever, or for any obscene, indecent, or immoral purpose, exhibition, or practice whatsoever, or for any exhibition injurious to the health or dangerous to the life or limb of the child, or who shall cause, procure, or encourage the child to engage therein, and any person who shall take, receive, hire, employ, use, exhibit, or have in custody any child for any of the purposes mentioned in this section, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.140 ;-- Am. 2002, Act 672, Eff. Mar. 31, 2003

Former Law: See section 1 of Act 260 of 1881, being How., § 1998; CL 1897, § 5553; CL 1915, § 7222; and CL 1929, § 12798.

750.141 Presence of minor under 17 in places where liquor is sold, given away, or furnished; attendance of minors at dances.

Sec. 141.

A minor child under 17 years of age shall not be permitted to remain in a dance hall, saloon, barroom or any place where spirituous or intoxicating liquor, wine or beer, or any beverage, liquor or liquors containing spirituous or intoxicating liquor, beer or malt liquor is sold, given away or furnished for a beverage, unless the minor is accompanied by parent or guardian. A proprietor, keeper or manager of any such place who permits a minor child to remain in any such place, and a person who encourages or induces in any way the minor child to enter the place or to remain therein shall be deemed guilty of a misdemeanor. This section shall not prevent a township, village or city from establishing, by ordinance, regulations more stringent than the provisions of this act relative to the attendance of a minor at theaters, movie houses, bowling or billiard halls and dance halls. This section shall not prevent a township, village or city from establishing, by ordinance, regulations permitting the attendance of minor children at dances where no spirituous or intoxicating liquor, beer or malt liquor is sold, given away or consumed in the dance area.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.141 ;-- Am. 1959, Act 254, Eff. Mar. 19, 1960 ;-- Am. 1966, Act 166, Imd. Eff. July 1, 1966 ;-- Am. 1972, Act 32, Imd. Eff. Feb. 19, 1972

Former Law: See section 3 of Chapter XXX of Part II of Act 319 of 1927, being CL 1929, § 7631; section 2 of Act 260 of 1881, being How., § 1999; CL 1897, § 5554; CL 1915, § 7223; CL 1929, § 12799; Act 236 of 1905; and Act 55 of 1907.

750.141a Definitions; prohibited conduct by person having control of real property; applicability of section; violation of subsection (2) as misdemeanor; penalty; evidence of rebuttable presumption; selling or furnishing alcoholic beverage to minor not authorized by act; criminal penalty.

Sec. 141a.

(1) As used in this section:

(a) "Alcoholic beverage" means an alcoholic liquor as defined in section 2 of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.2 of the Michigan Compiled Laws.

(b) "Allow" means to give permission for, or approval of, possession or consumption of an alcoholic beverage or a controlled substance, by any of the following means:

(i) In writing.

(ii) By 1 or more oral statements.

(iii) By any form of conduct, including a failure to take corrective action, that would cause a reasonable person to believe that permission or approval has been given.

(c) "Control over any premises, residence, or other real property" means the authority to regulate, direct, restrain, superintend, control, or govern the conduct of other individuals on or within that premises, residence, or other real property, and includes, but is not limited to, a possessory right.

(d) "Controlled substance" means that term as defined in section 7104 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7104 of the Michigan Compiled Laws.

(e) "Corrective action" means any of the following:

(i) Making a prompt demand that the minor or other individual depart from the premises, residence, or other real property, or refrain from the unlawful possession or consumption of the alcoholic beverage or controlled substance on or within that premises, residence, or other real property, and taking additional action described in subparagraph (ii) or (iii) if the minor or other individual does not comply with the request.

(ii) Making a prompt report of the unlawful possession or consumption of alcoholic liquor or a controlled substance to a law enforcement agency having jurisdiction over the violation.

(iii) Making a prompt report of the unlawful possession or consumption of alcoholic liquor or a controlled substance to another person having a greater degree of authority or control over the conduct of persons on or within the premises, residence, or other real property.

(f) "Minor" means an individual less than 21 years of age.

(g) "Premises" means a permanent or temporary place of assembly, other than a residence, including, but not limited to, any of the following:

(i) A meeting hall, meeting room, or conference room.

(ii) A public or private park.

(h) "Residence" means a permanent or temporary place of dwelling, including, but not limited to, any of the

following:

- (i) A house, apartment, condominium, or mobile home.
- (ii) A cottage, cabin, trailer, or tent.
- (iii) A motel unit, hotel unit, or bed and breakfast unit.
- (i) "Social gathering" means an assembly of 2 or more individuals for any purpose, unless all of the individuals attending the assembly are members of the same household or immediate family.
- (2) Except as otherwise provided in subsection (3), an owner, tenant, or other person having control over any premises, residence, or other real property shall not do either of the following:
 - (a) Knowingly allow a minor to consume or possess an alcoholic beverage at a social gathering on or within that premises, residence, or other real property.
 - (b) Knowingly allow any individual to consume or possess a controlled substance at a social gathering on or within that premises, residence, or other real property.
- (3) This section does not apply to the use, consumption, or possession of a controlled substance by an individual pursuant to a lawful prescription, or to the use, consumption, or possession of an alcoholic beverage by a minor for religious purposes.
- (4) Except as provided in subsection (5), a person who violates subsection (2) is guilty of a misdemeanor punishable by imprisonment for not more than 30 days or by a fine of not more than \$1,000.00, or both.
- (5) For a second or subsequent violation of subsection (2) the person is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by a fine of not more than \$1,000.00, or both.
- (6) Evidence of all of the following gives rise to a rebuttable presumption that the defendant allowed the consumption or possession of an alcoholic beverage or a controlled substance on or within a premises, residence, or other real property, in violation of this section:
 - (a) The defendant had control over the premises, residence, or other real property.
 - (b) The defendant knew that a minor was consuming or in possession of an alcoholic beverage or knew that an individual was consuming or in possession of a controlled substance at a social gathering on or within that premises, residence, or other real property.
 - (c) The defendant failed to take corrective action.
- (7) This section does not authorize selling or furnishing an alcoholic beverage to a minor.
- (8) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct.

History: Add. 1994, Act 31, Eff. June 1, 1994

Compiler's Notes: Former MCL 750.141a, which pertained to furnishing alcoholic beverage to minors without prescription, was repealed by Act 531 of 1978, Eff. Dec. 23, 1978.

750.141b Repealed. 1963, Act 162, Eff. Sept. 6, 1963.

Compiler's Notes: The repealed section provided for form, issuance, and use of liquor purchase identification cards by persons between ages of 21 and 25; imposed penalty for misuse or falsification.

750.141c, 750.141d Repealed. 1978, Act 531, Eff. Dec. 23, 1978.

Compiler's Notes: The repealed sections pertained to false representation or information as to age for purpose of purchasing alcoholic liquor.

750.142 Furnishing obscene publications or criminal news to minors.

Sec. 142.

A person who sells, gives away or in any way furnishes to a person under the age of 18 years a book, pamphlet, or other printed paper or other thing, containing obscene language, or obscene prints, pictures, figures or

descriptions tending to corrupt the morals of youth, or any newspapers, pamphlets or other printed paper devoted to the publication of criminal news, police reports, or criminal deeds, and a person who shall in any manner hire, use or employ a person under the age of 18 years to sell, give away, or in any manner distribute such books, pamphlets or printed papers, and any person having the care, custody or control of a person under the age of 18 years, who permits him or her to engage in any such employment, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.142 ;-- Am. 1972, Act 14, Imd. Eff. Feb. 19, 1972

Former Law: See section 5 of Act 260 of 1881, being How., § 2002; CL 1897, § 5557; CL 1915, § 7226; and CL 1929, § 12802.

750.143 Children; exhibition of obscene matter.

Sec. 143.

Exhibition of obscene matter within view of children—Any person who shall exhibit upon any public street or highway, or in any other place within the view of children passing on any public street or highway, any book, pamphlet or other printed paper or thing containing obscene language or obscene prints, figures, or descriptions, tending to the corruption of the morals of youth, or any newspapers, pamphlets, or other printed paper or thing devoted to the publication of criminal news, police reports or criminal deeds, shall on conviction thereof be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.143

Former Law: See section 6 of Act 260 of 1881, being How., § 2003; CL 1897, § 5558; CL 1915, § 7227; and CL 1929, § 12803.

750.143a Information about rating system; posting sign by video game retailer required; violation; fine; definitions.

Sec. 143a.

(1) A video game retailer shall post a sign in a prominent area within the video game retailer's retail establishment that provides information about a rating system or notifies consumers that a rating system is available to aid in the selection of a game and shall make information that explains the video game rating system available to consumers on request.

(2) A video game retailer that violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$1,000.00.

(3) As used in this section:

(a) "Rating system" means any video game rating system shown on the exterior packaging of a video game when it is sold or rented.

(b) "Video game" means an object or device that stores recorded data or instructions generated by a person who uses it, and by processing the data or instructions creates an interactive game capable of being played, viewed, or experienced on or through a computer, gaming system, game console, or other technology.

(c) "Video game retailer" means a person that sells or rents video games to the public.

History: Add. 2005, Act 105, Eff. Dec. 1, 2005

750.144 Minor; boarding houses, licensing.

Sec. 144.

Licensed boarding homes for children—Any person who maintains a boarding home for children, unless licensed therefor by the state welfare commission, shall be guilty of a misdemeanor.

Any person who has in his custody or control for a longer period than 30 days, 1 or more children under the age of 15 years unattended by a parent or guardian, except children related to him by blood or marriage, for the purpose of providing such child or children with care, food and lodging, shall be deemed to maintain a boarding home for children: Provided, That nothing in this section shall be construed to apply to the legal guardian of the child.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.144

Former Law: See section 6 of Act 136 of 1919, being CL 1929, § 12874.

750.145 Minor; contributing to neglect or delinquency.

Sec. 145.

Contributing to neglect or delinquency of children—Any person who shall by any act, or by any word, encourage, contribute toward, cause or tend to cause any minor child under the age of 17 years to become neglected or delinquent so as to come or tend to come under the jurisdiction of the juvenile division of the probate court, as defined in section 2 of chapter 12a of Act No. 288 of the Public Acts of 1939, as added by Act No. 54 of the Public Acts of the First Extra Session of 1944, and any amendments thereto, whether or not such child shall in fact be adjudicated a ward of the probate court, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- Am. 1939, Act 88, Eff. Sept. 29, 1939 ;-- Am. 1945, Act 85, Eff. Sept. 6, 1945 ;-- CL 1948, 750.145

Compiler's Notes: For provisions of section 2, referred to in this section, see MCL 712A.2.

Former Law: See section 2 of Chapter XXX of Part II of Act 319 of 1927, being CL 1929, § 7630; and section 13 of Chapter XXXVI of Part II of Act 319 of 1927, being CL 1929, § 7696.

750.145a Accosting, enticing or soliciting child for immoral purpose.

Sec. 145a.

A person who accosts, entices, or solicits a child less than 16 years of age, regardless of whether the person knows the individual is a child or knows the actual age of the child, or an individual whom he or she believes is a child less than 16 years of age with the intent to induce or force that child or individual to commit an immoral act, to submit to an act of sexual intercourse or an act of gross indecency, or to any other act of depravity or delinquency, or who encourages a child less than 16 years of age, regardless of whether the person knows the individual is a child or knows the actual age of the child, or an individual whom he or she believes is a child less than 16 years of age to engage in any of those acts is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$4,000.00, or both.

History: Add. 1935, Act 174, Eff. Sept. 21, 1935 ;-- Am. 1939, Act 88, Eff. Sept. 29, 1939 ;-- CL 1948, 750.145a ;-- Am. 2002, Act 45, Eff. June 1, 2002

750.145b Accosting, enticing or soliciting child for immoral purpose; prior conviction; penalty.

Sec. 145b.

(1) A person convicted of violating section 145a who has 1 or more prior convictions is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$10,000.00, or both.

(2) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined

by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.

(3) As used in this section, "prior conviction" means a violation of section 145a or a violation of a law of another state substantially corresponding to section 145a.

History: Add. 1935, Act 174, Eff. Sept. 21, 1935 ;-- Am. 1939, Act 88, Eff. Sept. 29, 1939 ;-- CL 1948, 750.145b ;-- Am. 2002, Act 45, Eff. June 1, 2002

750.145c Definitions; child sexually abusive activity or material; penalties; possession of child sexually abusive material; expert testimony; defenses; acts of commercial film or photographic print processor; report to law enforcement agency by computer technician; reasonable availability of evidence to defendant; applicability and uniformity of section; enactment or enforcement of ordinance, rule, or regulation prohibited.

Sec. 145c.

(1) As used in this section:

- (a) "Access" means to intentionally cause to be viewed by or transmitted to a person.
- (b) "Appears to include a child" means that the depiction appears to include, or conveys the impression that it includes, a person who is less than 18 years of age, and the depiction meets either of the following conditions:
 - (i) It was created using a depiction of any part of an actual person under the age of 18.
 - (ii) It was not created using a depiction of any part of an actual person under the age of 18, but all of the following apply to that depiction:
 - (A) The average individual, applying contemporary community standards, would find the depiction, taken as a whole, appeals to the prurient interest.
 - (B) The reasonable person would find the depiction, taken as a whole, lacks serious literary, artistic, political, or scientific value.
 - (C) The depiction depicts or describes a listed sexual act in a patently offensive way.
- (c) "Child" means a person who is less than 18 years of age, subject to the affirmative defense created in subsection (7) regarding persons emancipated by operation of law.
- (d) "Commercial film or photographic print processor" means a person or his or her employee who, for compensation, develops exposed photographic film into movie films, negatives, slides, or prints; makes prints from negatives or slides; or duplicates movie films or videotapes.
- (e) "Computer technician" means a person who installs, maintains, troubleshoots, upgrades, or repairs computer hardware, software, personal computer networks, or peripheral equipment.
- (f) "Contemporary community standards" means the customary limits of candor and decency in this state at or near the time of the alleged violation of this section.
- (g) "Erotic fondling" means touching a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, or if the person is a child, the developing or undeveloped breast area, for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved. Erotic fondling does not include physical contact, even if affectionate, that is not for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved.
- (h) "Erotic nudity" means the lascivious exhibition of the genital, pubic, or rectal area of any person. As used in this subdivision, "lascivious" means wanton, lewd, and lustful and tending to produce voluptuous or lewd emotions.
- (i) "Listed sexual act" means sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, passive sexual involvement, sexual excitement, or erotic nudity.
- (j) "Make" means to bring into existence by copying, shaping, changing, or combining material, and specifically includes, but is not limited to, intentionally creating a reproduction, copy, or print of child sexually abusive material, in whole or part. Make does not include the creation of an identical reproduction or copy of child sexually abusive material within the same digital storage device or the same piece of digital storage media.
- (k) "Masturbation" means the real or simulated touching, rubbing, or otherwise stimulating of a person's own clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, or if the person is a child, the developing or undeveloped breast area, either by manual manipulation or self-induced or with an artificial

instrument, for the purpose of real or simulated overt sexual gratification or arousal of the person.

(l) "Passive sexual involvement" means an act, real or simulated, that exposes another person to or draws another person's attention to an act of sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, sexual excitement, or erotic nudity because of viewing any of these acts or because of the proximity of the act to that person, for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved.

(m) "Prurient interest" means a shameful or morbid interest in nudity, sex, or excretion.

(n) "Child sexually abusive activity" means a child engaging in a listed sexual act.

(o) "Child sexually abusive material" means any depiction, whether made or produced by electronic, mechanical, or other means, including a developed or undeveloped photograph, picture, film, slide, video, electronic visual image, computer diskette, computer or computer-generated image, or picture, or sound recording which is of a child or appears to include a child engaging in a listed sexual act; a book, magazine, computer, computer storage device, or other visual or print or printable medium containing such a photograph, picture, film, slide, video, electronic visual image, computer, or computer-generated image, or picture, or sound recording; or any reproduction, copy, or print of such a photograph, picture, film, slide, video, electronic visual image, book, magazine, computer, or computer-generated image, or picture, other visual or print or printable medium, or sound recording.

(p) "Sadomasochistic abuse" means either of the following:

(i) Flagellation or torture, real or simulated, for the purpose of real or simulated sexual stimulation or gratification, by or upon a person.

(ii) The condition, real or simulated, of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification of a person.

(q) "Sexual excitement" means the condition, real or simulated, of human male or female genitals in a state of real or simulated overt sexual stimulation or arousal.

(r) "Sexual intercourse" means intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between a human and an animal, or with an artificial genital.

(2) A person who persuades, induces, entices, coerces, causes, or knowingly allows a child to engage in a child sexually abusive activity for the purpose of producing any child sexually abusive material, or a person who arranges for, produces, makes, copies, reproduces, or finances, or a person who attempts or prepares or conspires to arrange for, produce, make, copy, reproduce, or finance any child sexually abusive activity or child sexually abusive material for personal, distributional, or other purposes if that person knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child is guilty of a crime as follows:

(a) Except as provided in subdivision (b), the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$100,000.00, or both.

(b) If the child sexually abusive activity or child sexually abusive material involves a prepubescent child, sadomasochistic abuse or bestiality, or includes a video or more than 100 images of child sexually abusive material, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than \$125,000.00, or both.

(3) Except as provided in subsection (14), a person who distributes or promotes, or finances the distribution or promotion of, or receives for the purpose of distributing or promoting, or conspires, attempts, or prepares to distribute, receive, finance, or promote any child sexually abusive material or child sexually abusive activity if that person knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child is guilty of a crime as follows:

(a) Except as provided in subdivision (b), the person is guilty of a felony punishable by imprisonment for not more than 7 years or a fine of not more than \$50,000.00, or both.

(b) If the child sexually abusive activity or child sexually abusive material involves a prepubescent child, sadomasochistic abuse or bestiality, or includes a video or more than 100 images of child sexually abusive material, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$75,000.00, or both.

(4) A person who knowingly possesses or knowingly seeks and accesses any child sexually abusive material if that person knows, has reason to know, or should reasonably be expected to know the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child is guilty of a crime as follows:

(a) Except as provided in subdivision (b) and section 145g, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$10,000.00, or both.

(b) If the child sexually abusive activity or child sexually abusive material involves a prepubescent child, sadomasochistic abuse or bestiality, or includes a video or more than 100 images of child sexually abusive material, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$50,000.00, or both.

(5) Subsection (4) does not apply to any of the following:

(a) A person described in section 7 of 1984 PA 343, MCL 752.367, a commercial film or photographic print processor acting under subsection (9), or a computer technician acting under subsection (10).

(b) A police officer acting within the scope of his or her duties as a police officer.

(c) An employee or contract agent of the department of health and human services acting within the scope of his or her duties as an employee or contract agent.

(d) A judicial officer or judicial employee acting within the scope of his or her duties as a judicial officer or judicial employee.

(e) A party or witness in a criminal or civil proceeding acting within the scope of that criminal or civil proceeding.

(f) A physician, psychologist, limited license psychologist, professional counselor, or registered nurse licensed under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, acting within the scope of practice for which he or she is licensed.

(g) A social worker registered in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, acting within the scope of practice for which he or she is registered.

(6) Expert testimony as to the age of the child used in a child sexually abusive material or a child sexually abusive activity is admissible as evidence in court and may be a legitimate basis for determining age, if age is not otherwise proven.

(7) It is an affirmative defense to a prosecution under this section that the alleged child is a person who is emancipated by operation of law under section 4(2) of 1968 PA 293, MCL 722.4, as proven by a preponderance of the evidence.

(8) If a defendant in a prosecution under this section proposes to offer in his or her defense evidence to establish that a depiction that appears to include a child was not, in fact, created using a depiction of any part of an actual person under the age of 18, the defendant shall at the time of the arraignment on the information or within 15 days after arraignment but not less than 10 days before the trial of the case, or at such other time as the court directs, file and serve upon the prosecuting attorney of record a notice in writing of his or her intention to offer that defense. The notice must contain, as particularly as is known to the defendant or the defendant's attorney, the names of witnesses to be called on behalf of the defendant to establish that defense. The defendant's notice must include specific information as to the facts that establish that the depiction was not, in fact, created using a depiction of any part of an actual person under the age of 18. Failure to file a timely notice in conformance with this subsection precludes a defendant from offering this defense.

(9) If a commercial film or photographic print processor reports to a law enforcement agency having jurisdiction his or her knowledge or observation, within the scope of his or her professional capacity or employment, of a film, photograph, movie film, videotape, negative, or slide depicting a person that the processor has reason to know or reason to believe is a child engaged in a listed sexual act; furnishes a copy of the film, photograph, movie film, videotape, negative, or slide to a law enforcement agency having jurisdiction; or keeps the film, photograph, movie film, videotape, negative, or slide according to the law enforcement agency's instructions, both of the following apply:

(a) The identity of the processor must be confidential, subject to disclosure only with his or her consent or by judicial process.

(b) If the processor acted in good faith, he or she is immune from civil liability that might otherwise be incurred by his or her actions. This immunity extends only to acts described in this subsection.

(10) If a computer technician reports to a law enforcement agency having jurisdiction his or her knowledge or observation, within the scope of his or her professional capacity or employment, of an electronic visual image, computer-generated image or picture or sound recording depicting a person that the computer technician has reason to know or reason to believe is a child engaged in a listed sexual act; furnishes a copy of that image, picture, or sound recording to the law enforcement agency; or keeps the image, picture, or sound recording according to the law enforcement agency's instructions, both of the following apply:

(a) The identity of the computer technician must be confidential, subject to disclosure only with his or her consent or by judicial process.

(b) If the computer technician acted in good faith, he or she is immune from civil liability that might otherwise be incurred by his or her actions. This immunity extends only to acts described in this subsection.

(11) In any criminal proceeding regarding an alleged violation or attempted violation of this section, the court shall deny any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any photographic or other pictorial evidence of a child engaging in a listed sexual act if the prosecuting attorney makes that evidence reasonably available to the defendant. Evidence is considered to be reasonably available to the defendant under this subsection if the prosecuting attorney provides an opportunity to the defendant and his or her attorney, and any

person the defendant may seek to qualify as an expert witness at trial, to inspect, view, and examine that evidence at a facility approved by the prosecuting attorney.

(12) This section applies uniformly throughout the state and all political subdivisions and municipalities in the state.

(13) A local municipality or political subdivision shall not enact any ordinance or enforce any existing ordinance, rule, or regulation governing child sexually abusive activity or child sexually abusive material.

(14) Subsection (3) does not apply to the persons described in section 7 of 1984 PA 343, MCL 752.367.

History: Add. 1977, Act 301, Eff. Mar. 30, 1978 ;-- Am. 1988, Act 110, Eff. June 1, 1988 ;-- Am. 1994, Act 444, Eff. Apr. 1, 1995 ;-- Am. 2002, Act 629, Eff. Mar. 31, 2003 ;-- Am. 2004, Act 478, Imd. Eff. Dec. 28, 2004 ;-- Am. 2012, Act 583, Eff. Mar. 1, 2013 ;-- Am. 2018, Act 373, Eff. Mar. 17, 2019

Compiler's Notes: The definitions for subdivisions (n) and (o) are evidently out of alphabetical order.

750.145d Use of internet or computer system; prohibited conduct; violation; penalty; jurisdiction; order to reimburse state or local governmental unit; definitions.

Sec. 145d.

(1) A person shall not use the internet or a computer, computer program, computer network, or computer system to communicate with any person for the purpose of doing any of the following:

(a) Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under section 145a, 145c, 157c, 349, 350, 520b, 520c, 520d, 520e, or 520g, or section 5 of 1978 PA 33, MCL 722.675, in which the victim or intended victim is a minor or is believed by that person to be a minor.

(b) Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under section 411h or 411i.

(c) Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under chapter XXXIII or section 327, 327a, 328, or 411a(2).

(2) A person who violates this section is guilty of a crime as follows:

(a) If the underlying crime is a misdemeanor or a felony with a maximum term of imprisonment of less than 1 year, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$5,000.00, or both.

(b) If the underlying crime is a misdemeanor or a felony with a maximum term of imprisonment of 1 year or more but less than 2 years, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$5,000.00, or both.

(c) If the underlying crime is a misdemeanor or a felony with a maximum term of imprisonment of 2 years or more but less than 4 years, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$5,000.00, or both.

(d) If the underlying crime is a felony with a maximum term of imprisonment of 4 years or more but less than 10 years, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$5,000.00, or both.

(e) If the underlying crime is a felony punishable by a maximum term of imprisonment of 10 years or more but less than 15 years, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(f) If the underlying crime is a felony punishable by a maximum term of imprisonment of 15 years or more or for life, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$20,000.00, or both.

(3) The court may order that a term of imprisonment imposed under this section be served consecutively to any term of imprisonment imposed for conviction of the underlying offense.

(4) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law committed by that person while violating or attempting to violate this section, including the underlying offense.

(5) This section applies regardless of whether the person is convicted of committing, attempting to commit, conspiring to commit, or soliciting another person to commit the underlying offense.

(6) A violation or attempted violation of this section occurs if the communication originates in this state, is intended to terminate in this state, or is intended to terminate with a person who is in this state.

(7) A violation or attempted violation of this section may be prosecuted in any jurisdiction in which the communication originated or terminated.

(8) The court may order a person convicted of violating this section to reimburse this state or a local unit of

government of this state for expenses incurred in relation to the violation in the same manner that expenses may be ordered to be reimbursed under section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f.

(9) As used in this section:

(a) "Computer" means any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations including logical, arithmetic, or memory functions with or on computer data or a computer program and that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network. Computer includes a computer game device or a cellular telephone, personal digital assistant (PDA), or other handheld device.

(b) "Computer network" means the interconnection of hardwire or wireless communication lines with a computer through remote terminals, or a complex consisting of 2 or more interconnected computers.

(c) "Computer program" means a series of internal or external instructions communicated in a form acceptable to a computer that directs the functioning of a computer, computer system, or computer network in a manner designed to provide or produce products or results from the computer, computer system, or computer network.

(d) "Computer system" means a set of related, connected or unconnected, computer equipment, devices, software, or hardware.

(e) "Device" includes, but is not limited to, an electronic, magnetic, electrochemical, biochemical, hydraulic, optical, or organic object that performs input, output, or storage functions by the manipulation of electronic, magnetic, or other impulses.

(f) "Internet" means that term as defined in section 230 of the communications act of 1934, 47 USC 230.

(g) "Minor" means an individual who is less than 18 years of age.

History: Add. 1999, Act 32, Eff. Aug. 1, 1999 ;-- Am. 1999, Act 235, Eff. Mar. 10, 2000 ;-- Am. 2000, Act 185, Eff. Sept. 18, 2000 ;-- Am. 2012, Act 353, Eff. Jan. 1, 2013

750.145e Dissemination of sexually explicit visual material of another person; prohibition; exceptions; other violations of law; violation; penalty; definitions.

Sec. 145e.

(1) A person shall not intentionally and with the intent to threaten, coerce, or intimidate disseminate any sexually explicit visual material of another person if all of the following conditions apply:

(a) The other person is not less than 18 years of age.

(b) The other person is identifiable from the sexually explicit visual material itself or information displayed in connection with the sexually explicit visual material. This subdivision does not apply if the identifying information is supplied by a person other than the disseminator.

(c) The person obtains the sexually explicit visual material of the other person under circumstances in which a reasonable person would know or understand that the sexually explicit visual material was to remain private.

(d) The person knows or reasonably should know that the other person did not consent to the dissemination of the sexually explicit visual material.

(2) Subsection (1) does not apply to any of the following:

(a) To the extent content is provided by another person, a person engaged in providing:

(i) An interactive computer service as that term is defined in 47 USC 230;

(ii) An information service, telecommunications service, or cable service as those terms are defined in 47 USC 153;

(iii) A commercial mobile service as defined in 47 USC 332;

(iv) A direct-to-home satellite service as defined in 47 USC 303(v); or

(v) A video service as defined in 2006 PA 480, MCL 484.3301 to 484.3315.

(b) A person who disseminates sexually explicit visual material that is part of a news report or commentary or an artistic or expressive work, such as a performance, work of art, literary work, theatrical work, musical work, motion picture, film, or audiovisual work.

(c) A law enforcement officer, or a corrections officer or guard in a correctional facility or jail, who is engaged in the official performance of his or her duties.

(d) A person disseminating sexually explicit visual material in the reporting of a crime.

(3) This section does not prohibit a person from being charged with, convicted of, or punished for another violation of law committed by that person while violating or attempting to violate this section.

- (4) A person who violates subsection (1) is guilty of a crime and punishable as provided in section 145f.
- (5) As used in this section:
 - (a) "Disseminate" means post, distribute, or publish on a computer device, computer network, website, or other electronic device or medium of communication.
 - (b) "Nudity" means displaying a person's genitalia or anus or, if the person is a female, her nipples or areola.
 - (c) "Sexually explicit visual material" means a photograph or video that depicts nudity, erotic fondling, sexual intercourse, or sadomasochistic abuse.

History: Add. 2016, Act 89, Eff. July 25, 2016

750.145f Violation of MCL 750.145e; penalty.

Sec. 145f.

A person who violates section 145e is guilty of a crime punishable as follows:

- (a) Except as provided in subdivision (b), the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.
- (b) For a second or subsequent violation of section 145e, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

History: Add. 2016, Act 90, Eff. July 25, 2016

750.145g Child sexually abusive activity or material; second or subsequent offense; mandatory minimum.

Sec. 145g.

If a person is convicted of a second or subsequent offense under section 145c, the sentence imposed for a second or subsequent offense is a mandatory minimum sentence of not less than 5 years. For the purposes of this section, an offense is considered a second or subsequent offense if, prior to conviction of the second or subsequent offense, the person has been convicted under section 145c or of another crime involving a sexual offense against a minor.

History: Add. 2018, Act 375, Eff. Mar. 17, 2019

750.145h Vulnerable adult; sexually explicit visual material; violation; penalties; enhanced sentence; definitions.

Sec. 145h.

(1) A person shall not intentionally or knowingly harass, abuse, threaten, force, coerce, compel, or exploit the vulnerability of a vulnerable adult in a manner that causes the vulnerable adult to provide that person, or any other person, sexually explicit visual material.

(2) Except as provided in subsection (3), a person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$500.00, or both.

(3) A person who violates subsection (1) who has 1 or more prior convictions for a violation of subsection (1) is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$1,000.00, or both.

(4) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions must be

determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.
- (5) As used in this section:
 - (a) "Sexually explicit visual material" means that term as defined in section 145e.
 - (b) "Vulnerable adult" means that term as defined in section 145m.

History: Add. 2023, Act 275, Eff. Mar. 7, 2024