

SUBSTITUTE FOR
HOUSE BILL NO. 5682

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**
6 **this subsection is a health professional or medical volunteer and**
7 **the violation occurs while the victim is performing his or her**

1 duties as a health professional or medical volunteer, the person is
2 guilty of a misdemeanor punishable by imprisonment for not more
3 than 93 days or a fine of not more than \$1,000.00, or both. The
4 enhanced fine under this subsection does not apply if the defendant
5 is a patient who is receiving treatment from the victim.

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) The operator of a health facility licensed under article**
 19 **17 of the public health code, 1978 PA 368, MCL 333.20101 to**
 20 **333.22260, shall post a sign in the health facility in a prominent**
 21 **and visible location that provides that a person, other than a**
 22 **patient receiving treatment, who assaults a health professional or**
 23 **medical volunteer in violation of this section is subject to the**
 24 **enhanced fine provided for in this section and that a patient**
 25 **receiving treatment who assaults a health professional or medical**
 26 **volunteer may still be subject to prosecution under this section.**

27 (8) ~~(7)~~As used in this section: ~~,"dating~~

28 (a) **"Dating** relationship" means frequent, intimate
 29 associations primarily characterized by the expectation of

1 affectional involvement. This term does not include a casual
2 relationship or an ordinary fraternization between 2 individuals in
3 a business or social context.

4 (b) "Health professional" means an individual who is employed
5 by a hospital, health system, or health care provider, whether
6 operated by a governmental unit or a private entity, and whose
7 duties within the scope of that employment involve the provision of
8 direct patient care and require licensure, certification, or other
9 regulation under the public health code, 1978 PA 368, MCL 333.1101
10 to 333.25211, or who is providing indirect patient care under the
11 direction of a hospital, health system, or health care provider.

12 (c) "Medical volunteer" means an individual who is
13 volunteering at a hospital, in a health system, or with a health
14 care provider, whether operated by a governmental unit or a private
15 entity, and whose duties as a volunteer involve the provision of
16 direct patient care, or who is providing indirect patient care
17 under the direction of a hospital, health system, or health care
18 provider.

19 Sec. 81a. (1) Except as otherwise provided in this section, a
20 person who assaults an individual without a weapon and inflicts
21 serious or aggravated injury upon that individual without intending
22 to commit murder or to inflict great bodily harm less than murder
23 is guilty of a misdemeanor punishable by imprisonment for not more
24 than 1 year or a fine of not more than \$1,000.00, or both. **If the**
25 **victim of a violation under this subsection is a health**
26 **professional or medical volunteer and the violation occurs while**
27 **the victim is performing his or her duties as a health professional**
28 **or medical volunteer, the person is guilty of a misdemeanor**
29 **punishable by imprisonment for not more than 1 year or a fine of**

1 not more than \$2,000.00, or both. The enhanced fine under this
2 subsection does not apply if the defendant is a patient who is
3 receiving treatment from the victim.

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

13 (3) An individual who commits an assault and battery in
14 violation of subsection (2), and who has 1 or more previous
15 convictions for assaulting or assaulting and battering his or her
16 spouse or former spouse, an individual with whom he or she has or
17 has had a dating relationship, an individual with whom he or she
18 has had a child in common, or a resident or former resident of the
19 same household, in violation of any of the following, is guilty of
20 a felony punishable by imprisonment for not more than 5 years or a
21 fine of not more than \$5,000.00, or both:

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

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

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

28 (4) The operator of a health facility licensed under article
29 17 of the public health code, 1978 PA 368, MCL 333.20101 to

333.22260, shall post a sign in the health facility in a prominent and visible location that provides that a person, other than a patient receiving treatment, who assaults a health professional or medical volunteer in violation of this section is subject to the enhanced fine provided for in this section and that a patient receiving treatment who assaults a health professional or medical volunteer may still be subject to prosecution under this section.

(5) ~~(4)~~—As used in this section: ~~,"dating~~

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

(b) "Health professional" means an individual who is employed by a hospital, health system, or health care provider, whether operated by a governmental unit or a private entity, and whose duties within the scope of that employment involve the provision of direct patient care and require licensure, certification, or other regulation under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, or who is providing indirect patient care under the direction of a hospital, health system, or health care provider.

(c) "Medical volunteer" means an individual who is volunteering at a hospital, in a health system, or with a health care provider, whether operated by a governmental unit or a private entity, and whose duties as a volunteer involve the provision of direct patient care, or who is providing indirect patient care under the direction of a hospital, health system, or health care provider.

Sec. 82. (1) Except as otherwise provided in this subsection

1 or subsection (2), a person who assaults another person with a gun,
2 revolver, pistol, knife, iron bar, club, brass knuckles, or other
3 dangerous weapon without intending to commit murder or to inflict
4 great bodily harm less than murder is guilty of a felony punishable
5 by imprisonment for not more than 4 years or a fine of not more
6 than \$2,000.00, or both. **If the victim of a violation under this**
7 **subsection is a health professional or medical volunteer and the**
8 **violation occurs while the victim is performing his or her duties**
9 **as a health professional or medical volunteer, the person is guilty**
10 **of a felony punishable by imprisonment for not more than 4 years or**
11 **a fine of not more than \$4,000.00, or both. The enhanced fine under**
12 **this subsection does not apply if the defendant is a patient who is**
13 **receiving treatment from the victim.**

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

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

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

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

20 (3) **The operator of a health facility licensed under article**
21 **17 of the public health code, 1978 PA 368, MCL 333.20101 to**
22 **333.22260, shall post a sign in the health facility in a prominent**
23 **and visible location that provides that a person, other than a**
24 **patient receiving treatment, who assaults a health professional or**
25 **medical volunteer in violation of this section is subject to the**
26 **enhanced fine as provided for in this section and that a patient**
27 **receiving treatment who assaults a health professional or medical**
28 **volunteer may still be subject to prosecution under this section.**

29 (4) ~~(3)~~ As used in this section:

1 (a) "Health professional" means an individual who is employed
2 by a hospital, health system, or health care provider, whether
3 operated by a governmental unit or a private entity, and whose
4 duties within the scope of that employment involve the provision of
5 direct patient care and require licensure, certification, or other
6 regulation under the public health code, 1978 PA 368, MCL 333.1101
7 to 333.25211, or who is providing indirect patient care under the
8 direction of a hospital, health system, or health care provider.

9 (b) "Medical volunteer" means an individual who is
10 volunteering at a hospital, in a health system, or with a health
11 care provider, whether operated by a governmental unit or a private
12 entity, and whose duties as a volunteer involve the provision of
13 direct patient care, or who is providing indirect patient care
14 under the direction of a hospital, health system, or health care
15 provider.

16 (c) ~~(a)~~—"School" means a public, private, denominational, or
17 parochial school offering developmental kindergarten, kindergarten,
18 or any grade from 1 through 12.

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

24 (e) ~~(c)~~—"Weapon free school zone" means school property and a
25 vehicle used by a school to transport students to or from school
26 property.

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