



MICHIGAN STATE POLICE LEGAL UPDATE

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CRIMINAL LAW AND PROCEDURE MANUAL

The third edition of *Michigan Criminal Law and Procedure: A Manual for Michigan Police Officers* is available for purchase in print and eBook formats.

The manual is published by [Kendall Hunt Publishing Co.](http://www.kendallhunt.com) Copies may be [ordered online](#) or by calling Kendall Hunt Customer Service at 800-228-0810.

STATUTES

Amendments to the Michigan Penal Code to add the crimes of assault and battery of a pregnant individual and intentional dissemination of sexually explicit visual material of another person.

Assault and battery of a pregnant person

[Public Act 87 of 2016](#) amended [MCL 750.81](#) of the Michigan Penal Code to include the crime of assault and battery of a pregnant individual. A person who assaults and batters a pregnant individual knowing that the individual is pregnant is guilty of a misdemeanor punishable by not more than 93 days or a fine of not more than \$500 or both. Punishment enhancements for prior convictions, as detailed in [MCL 750.81](#), apply equally to assault and battery of a pregnant individual.

Intentional dissemination of sexually explicit material of another person

[Public Act 89 of 2016](#) amended the Michigan Penal Code to add [MCL 750.145e](#) and the crime of intentional dissemination of sexually explicit visual material of another person. [Public Act 90 of 2016](#) amended the Michigan Penal Code to add [MCL 750.145f](#) that provides that a person who violates [MCL 750.145e](#) is guilty of a 93-day misdemeanor. A person with a second or subsequent violation of [MCL 750.145e](#) is guilty of a 1-year misdemeanor.

Definitions

The following terms are defined for purposes of [MCL 750.145e](#):

"Disseminate" means post, distribute, or publish on a computer device, computer network, website, or other electronic device or medium of communication. [MCL 750.145e\(5\)\(a\)](#).

"Nudity" means displaying a person's genitalia or anus or, if the person is a female, her nipples or areola. [MCL 750.145e\(5\)\(b\)](#).

"Sexually explicit visual material" means a photograph or video that depicts nudity, erotic fondling, sexual intercourse, or sadomasochistic abuse. [MCL 750.145e\(5\)\(c\)](#).

Prohibited conduct

Pursuant to [MCL 750.145e\(1\)](#), a person shall not intentionally and with the intent to threaten, coerce, or intimidate disseminate any sexually explicit visual material (SEVM) of another person if all of the following conditions apply:

- The other person is not less than 18 years of age.
- The other person is identifiable from the SEVM itself or information displayed in connection with the SEVM. (This does not apply if the identifying information is supplied by a person other than the disseminator.)
- The person obtains SEVM of another person under circumstances in which a reasonable person would know or understand that the SEVM was to remain private.
- The person knows or reasonably should know that the other person did not consent to the dissemination of the SEVM.

As provided in [MCL 750.145e\(2\)](#), [MCL 750.145e\(1\)](#) does not apply to any of the following:

- To the extent content is provided by another person, a person engaged in providing:
 - An interactive computer service as defined in [47 USC 230](#).
 - An information service, telecommunications service, or cable service as defined in [47 USC 153](#).
 - A commercial mobile service as defined in [47 USC 332](#).
 - A direct-to-home satellite service as defined in [47 USC 303\(v\)](#).
 - A video service as defined in [MCL 484.3301 to MCL 484.3315](#).
- A person who disseminates SEVM 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.
- 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.
- A person disseminating SEVM in the reporting of a crime.

A person charged under [MCL 750.145e](#) may also be charged with any other violation of law committed by that person while violating or attempting to violate [MCL 750.145e](#).

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