

HOUSE BILL No. 4157

February 19, 1987, Introduced by Reps. Bandstra, Sikkema, Clack, Stopczynski, Martin, Fitzgerald, Van Singel, Hoffman, Strand, Krause, Miller, Randall, Hoekman, Emmons, Bender, Power, Keith, Rocca, Gagliardi, Lynn Owen, Ciaramitaro, Trim, Leland, Giese, Bankes, Dunaskiss and DeLange and referred to the Committee on Social Services and Youth.

A bill to amend sections 2, 3, and 8 of Act No. 238 of the Public Acts of 1975, entitled

"Child protection law,"

as amended by Act No. 418 of the Public Acts of 1984, being sections 722.622, 722.623, and 722.628 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2, 3, and 8 of Act No. 238 of the
2 Public Acts of 1975, as amended by Act No. 418 of the Public Acts
3 of 1984, being sections 722.622, 722.623, and 722.628 of the
4 Michigan Compiled Laws, are amended to read as follows:

5 Sec. 2. As used in this act:

6 (a) "Central registry" means the system or organized mode of
7 keeping a record of all reports filed with the department
8 pursuant to this act in which relevant and accurate evidence of

1 child abuse or neglect is found to exist and which is maintained
2 at the department.

3 (b) "Child" means a person under 18 years of age.

4 (c) "Child abuse" means harm or threatened harm to a child's
5 health or welfare by ~~a~~ ANY person ~~responsible for the child's~~
6 ~~health or welfare~~ which occurs through nonaccidental physical or
7 mental injury; sexual abuse; sexual exploitation; or
8 maltreatment.

9 (d) "Child neglect" means harm to a child's health or wel-
10 fare by a person responsible for the child's health or welfare
11 which occurs through negligent treatment, including the failure
12 to provide adequate food, clothing, shelter, or medical care.

13 (e) "Sexual abuse" means engaging in sexual contact or
14 sexual penetration as defined in section 520a of the Michigan
15 penal code, Act No. 328 of the Public Acts of 1931, being section
16 750.520a of the Michigan Compiled Laws, with a child by ~~a~~ ANY
17 person. ~~responsible for the child's health or welfare.~~

18 (f) "Sexual exploitation" includes allowing, permitting, or
19 encouraging a child to engage in prostitution by ~~a~~ ANY person;
20 ~~responsible for the child's welfare;~~ or allowing, permitting,
21 encouraging, or engaging in the photographing, filming, or
22 depicting of a child engaged in a listed sexual act as defined in
23 section 145c of Act No. 328 of the Public Acts of 1931, being
24 section 750.145c of the Michigan Compiled Laws, by ~~a~~ ANY
25 person. ~~responsible for the child's health or welfare.~~

1 (g) "Relevant evidence" means evidence having a tendency to
2 make the existence of a fact that is at issue more probable than
3 it would be without the evidence.

4 (h) "Department" means the state department of social
5 services.

6 (i) "Expunge" means to physically remove or eliminate and
7 destroy a record or report.

8 (j) "Local office file" means the system or organized mode
9 of keeping a record of a written report, document, or photograph
10 filed with and maintained by a county or a regionally based
11 office of the department.

12 (k) "Person responsible for the child's health or welfare"
13 includes, but is not limited to, a parent, legal guardian, step-
14 parent, or any other individual to whom a parent or legal guard-
15 ian delegates the care of the child.

16 Sec. 3. (1) A physician, coroner, dentist, medical examin-
17 er, nurse, a person licensed to provide emergency medical care,
18 audiologist, psychologist, family therapist, certified social
19 worker, social worker, social work technician, school administra-
20 tor, school counselor or teacher, law enforcement officer, or
21 ~~duly~~ regulated child care provider who has reasonable cause to
22 suspect child abuse or neglect immediately, by telephone or oth-
23 erwise, shall make an oral report, or cause an oral report to be
24 made, of the suspected child abuse or neglect to the department.
25 Within 72 hours after making the oral report, the reporting
26 person shall file a written report as required in this act. If
27 the reporting person is a member of the staff of a hospital,

1 agency, or school, the reporting person shall notify the person
2 in charge of the hospital, agency, or school of his or her find-
3 ing and that the report has been made, and shall make a copy of
4 the written report available to the person in charge. One report
5 from a hospital, agency, or school shall be considered adequate
6 to meet the reporting requirement. A member of the staff of a
7 hospital, agency, or school shall not be dismissed or otherwise
8 penalized for making a report required by this act.

9 (2) The written report shall contain the name of the child
10 and a description of the abuse or neglect. If possible, the
11 report shall contain the names and addresses of the child's par-
12 ents, the child's guardian, the persons with whom the child
13 resides, and the child's age. The report shall contain other
14 information available to the reporting person which might estab-
15 lish the cause of the abuse or neglect, THE IDENTITY OF THE
16 PERSON RESPONSIBLE FOR THE ABUSE OR NEGLECT, and the manner in
17 which the abuse or neglect occurred.

18 (3) The department shall inform the reporting person of the
19 required contents of the written report at the time the oral
20 report is made by the reporting person.

21 (4) The written report required in this section shall be
22 mailed or otherwise transmitted to the county department of
23 social services of the county in which the child suspected of
24 being abused or neglected is found.

25 (5) Upon receipt of a written report of suspected child
26 abuse ~~or~~ ALLEGEDLY CAUSED BY A PERSON RESPONSIBLE FOR THE
27 CHILD'S HEALTH OR WELFARE, OR UPON RECEIPT OF A WRITTEN REPORT OF

1 CHILD neglect, the department may provide copies to the
2 prosecuting attorney and the probate court of the counties
3 ~~where~~ IN WHICH the child suspected of being abused or neglected
4 resides and is found. UPON RECEIPT OF A WRITTEN REPORT OF SUS-
5 PECTED CHILD ABUSE ALLEGEDLY CAUSED BY A PERSON NOT RESPONSIBLE
6 FOR THE CHILD'S HEALTH OR WELFARE, THE DEPARTMENT SHALL PROVIDE A
7 COPY TO THE PROSECUTING ATTORNEY OF THE COUNTIES IN WHICH THE
8 CHILD SUSPECTED OF BEING ABUSED RESIDES AND IS FOUND.

9 (6) If the report indicates a violation of section 145c of
10 the Michigan penal code, Act No. 328 of the Public Acts of 1931,
11 being section 750.145c of the Michigan Compiled Laws, and the
12 department believes that the report has basis in fact, the
13 department shall transmit a copy of the written report to the
14 prosecuting attorney of the counties in which the child resides
15 and is found.

16 (7) For purposes of this act, the pregnancy of a child less
17 than 12 years of age or the presence of a venereal disease in a
18 child who is over 1 month of age but less than 12 years of age
19 shall be reasonable cause to suspect child abuse and neglect.

20 Sec. 8. (1) Within 24 hours after receiving a report made
21 pursuant to this act, the department shall commence an investiga-
22 tion of the child suspected of being ~~abused or~~ neglected OR
23 ABUSED BY A PERSON RESPONSIBLE FOR THE CHILD'S HEALTH OR
24 WELFARE.

25 (2) In the course of its investigation, the department shall
26 determine if the child is abused or neglected. The department
27 shall cooperate with law enforcement officials, courts of

1 competent jurisdiction, and appropriate state agencies providing
2 human services in relation to preventing, identifying, and treat-
3 ing child abuse and neglect; shall provide, enlist, and coordi-
4 nate the necessary services, directly or through the purchase of
5 services from other agencies and professions; and shall take nec-
6 essary action to prevent further abuses, to safeguard and enhance
7 the welfare of the child, and to preserve family life where
8 possible.

9 (3) In conducting its investigation, the department shall
10 seek the assistance of and cooperate with law enforcement offi-
11 cials within 24 hours after becoming aware that 1 or more of the
12 following conditions exists:

13 (a) Abuse or neglect is the suspected cause of a child's
14 death.

15 (b) The child is the victim of suspected sexual abuse or
16 sexual exploitation.

17 (c) Abuse or neglect resulting in severe physical injury to
18 the child requires medical treatment or hospitalization. For
19 purposes of this subdivision, "severe physical injury" means
20 brain damage, skull or bone fracture, subdural hemorrhage or
21 hematoma, dislocation, sprains, internal injuries, poisoning,
22 burns, scalds, severe cuts, or any other physical injury that
23 seriously impairs the health or physical well-being of a child.

24 (d) Law enforcement intervention is necessary for the pro-
25 tection of the child, a department employee, or another person
26 involved in the investigation.

1 (e) The alleged perpetrator of the child's injury is not a
2 person responsible for the child's health or welfare.

3 (4) Law enforcement officials shall cooperate with the
4 department in conducting investigations pursuant to subsection
5 (3) and shall comply with sections 5 and 7.

6 (5) Involvement of law enforcement officials pursuant to
7 this section shall not relieve or prevent the department from
8 proceeding with its investigation or treatment.

9 (6) In each county, the prosecuting attorney and the depart-
10 ment shall develop and establish procedures for involving law
11 enforcement officials as provided in this section.

12 (7) If there is reasonable cause to suspect that a child in
13 the care of or under the control of a public or private agency,
14 institution, or facility is an abused or neglected child, the
15 agency, institution, or facility shall be investigated by an
16 agency administratively independent of the agency, institution,
17 or facility being investigated. If the investigation produces
18 evidence of a violation of section 145c of the Michigan penal
19 code, Act No. 328 of the Public Acts of 1931, being
20 section 750.145c of the Michigan Compiled Laws, the investigating
21 agency shall transmit a copy of the results of the investigation
22 to the prosecuting attorney of the county in which the agency,
23 institution, or facility is located. The prosecuting attorney
24 may proceed under sections 135 to 145c of Act No. 328 of the
25 Public Acts of 1931, as amended, being sections 750.135
26 to 750.145c of the Michigan Compiled Laws, when a violation of
27 these sections has occurred.

1 (8) Schools and other institutions shall cooperate with the
2 department during an investigation of a report of child abuse or
3 neglect. Cooperation includes allowing access to the child with-
4 out parental consent if access is necessary to complete the
5 investigation or to prevent abuse or neglect of the child.
6 However, the person responsible for the child's health or welfare
7 shall be notified of the department's contact with the child at
8 the time or as soon afterward as the person can be reached, and
9 no child shall be subjected to a search at a school which
10 requires the child to remove his or her clothing to expose his
11 buttocks or genitalia or her breasts, buttocks, or genitalia
12 unless the department has obtained an order from a court of com-
13 petent jurisdiction permitting such a search. If the access
14 occurs within a hospital, the investigation shall be conducted so
15 as not to interfere with the medical treatment of the child or
16 other patients.

17 (9) Upon completion of the investigation by the department,
18 the department may inform the person who made the report as to
19 the disposition of the report.