

SENATE BILL No. 14

January 24, 1991, Introduced by Senator DE GROW and referred to the Committee on Family Law, Criminal Law, and Corrections.

A bill to amend section 8 of Act No. 238 of the Public Acts of 1975, entitled as amended
"Child protection law,"
as amended by Act No. 372 of the Public Acts of 1988, being section 722.628 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 8 of Act No. 238 of the Public Acts of
2 1975, as amended by Act No. 372 of the Public Acts of 1988, being
3 section 722.628 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 8. (1) Within 24 hours after receiving a report made
6 pursuant to this act, the department shall refer the report to
7 the prosecuting attorney if the report meets the requirements of
8 section 3(6) or shall commence an investigation of the child
9 suspected of being abused or neglected. Within 24 hours after

1 receiving a report whether from the reporting person or from the
2 department under section 3(6), the local law enforcement agency
3 shall refer the report to the department if the report meets the
4 requirements of section 3(7) or shall commence an investigation
5 of the child suspected of being abused or neglected. If the
6 child suspected of being abused is not in the physical custody of
7 the parent or legal guardian and informing the parent or legal
8 guardian would not endanger the child's health or welfare, the
9 agency or the department shall inform the child's parent or legal
10 guardian of the investigation as soon as the agency or the
11 department discovers the identity of the child's parent or legal
12 guardian.

13 (2) In the course of its investigation, the department shall
14 determine if the child is abused or neglected. The department
15 shall cooperate with law enforcement officials, courts of compe-
16 tent jurisdiction, and appropriate state agencies providing human
17 services in relation to preventing, identifying, and treating
18 child abuse and neglect; shall provide, enlist, and coordinate
19 the necessary services, directly or through the purchase of serv-
20 ices from other agencies and professions; and shall take neces-
21 sary action to prevent further abuses, to safeguard and enhance
22 the welfare of the child, and to preserve family life where
23 possible.

24 (3) In conducting its investigation, the department shall
25 seek the assistance of and cooperate with law enforcement offi-
26 cials within 24 hours after becoming aware that 1 or more of the
27 following conditions ~~—exists—~~ EXIST:

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

3 (b) The child is the victim of suspected sexual abuse or
4 sexual exploitation.

5 (c) Abuse or neglect resulting in severe physical injury to
6 the child requires medical treatment or hospitalization. For
7 purposes of this subdivision, "severe physical injury" means
8 brain damage, skull or bone fracture, subdural hemorrhage or
9 hematoma, dislocation, sprains, internal injuries, poisoning,
10 burns, scalds, severe cuts, or any other physical injury that
11 seriously impairs the health or physical well-being of a child.

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

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

17 (4) Law enforcement officials shall cooperate with the
18 department in conducting investigations pursuant to subsections
19 (1) and (3) and shall comply with sections 5 and 7.

20 (5) Involvement of law enforcement officials pursuant to
21 this section shall not relieve or prevent the department from
22 proceeding with its investigation or treatment if there is rea-
23 sonable cause to suspect that the child abuse or neglect was com-
24 mitted by a person responsible for the child's health or
25 welfare.

26 (6) In each county, the prosecuting attorney and the
27 department shall develop and establish procedures for involving

1 law enforcement officials as provided in this section AND FOR
2 NOTIFYING THE DEPARTMENT AND THE SUPERINTENDENT OF THE SCHOOL
3 DISTRICT OR INTERMEDIATE SCHOOL DISTRICT IN WHICH THE PERSON IS
4 EMPLOYED WHEN AN EMPLOYEE OF THE DISTRICT WHO WAS THE SUBJECT OF
5 AN INVESTIGATION CONDUCTED BY THE DEPARTMENT IS OFFICIALLY
6 CHARGED WITH ANY OF THE FOLLOWING CRIMES:

7 (A) CRIMINAL SEXUAL CONDUCT IN THE FIRST, SECOND, THIRD, OR
8 FOURTH DEGREE, IN VIOLATION OF SECTION 520B, 520C, 520D, OR 520E
9 OF THE MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF
10 1931, BEING SECTIONS 750.520B, 750.520C, 750.520D, AND 750.520E
11 OF THE MICHIGAN COMPILED LAWS.

12 (B) ASSAULT WITH INTENT TO COMMIT CRIMINAL SEXUAL CONDUCT,
13 IN VIOLATION OF SECTION 520G OF ACT NO. 328 OF THE PUBLIC ACTS OF
14 1931, BEING SECTION 750.520G OF THE MICHIGAN COMPILED LAWS.

15 (C) A FELONIOUS ATTEMPT OR A FELONIOUS CONSPIRACY TO COMMIT
16 CRIMINAL SEXUAL CONDUCT.

17 (D) AN ASSAULT ON A CHILD THAT IS PUNISHABLE AS A FELONY.

18 (E) CHILD ABUSE IN THE FIRST, SECOND, THIRD, OR FOURTH
19 DEGREE, IN VIOLATION OF SECTION 136B OF ACT NO. 328 OF THE PUBLIC
20 ACTS OF 1931, BEING SECTION 750.136B OF THE MICHIGAN COMPILED
21 LAWS.

22 (F) INVOLVEMENT IN CHILD ABUSIVE COMMERCIAL MATERIAL OR
23 CHILD ABUSIVE COMMERCIAL ACTIVITY, IN VIOLATION OF SECTION 145C
24 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.145C
25 OF THE MICHIGAN COMPILED LAWS.

26 (7) IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED UNDER
27 SUBSECTION (6), THE DEPARTMENT AND THE SUPERINTENDENT OF THE

1 SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT IN WHICH THE
2 PERSON IS EMPLOYED SHALL BE NOTIFIED WHEN AN EMPLOYEE OF THE DIS-
3 TRICT WHO WAS THE SUBJECT OF AN INVESTIGATION CONDUCTED BY THE
4 DEPARTMENT IS OFFICIALLY CHARGED WITH ANY OF THE CRIMES LISTED IN
5 SUBSECTION (6).

6 (8) ~~-(7)-~~ If there is reasonable cause to suspect that a
7 child in the care of or under the control of a public or private
8 agency, institution, or facility is an abused or neglected child,
9 the agency, institution, or facility shall be investigated by an
10 agency administratively independent of the agency, institution,
11 or facility being investigated. If the investigation produces
12 evidence of a violation of section 145c or sections 520b to 520g
13 of ~~the Michigan penal code,~~ Act No. 328 of the Public Acts of
14 1931, being sections 750.145c and 750.520b to 750.520g of the
15 Michigan Compiled Laws, the investigating agency shall transmit a
16 copy of the results of the investigation to the prosecuting
17 attorney of the county in which the agency, institution, or
18 facility is located. The prosecuting attorney may proceed under
19 sections 135 to 145c or 520b to 520g of Act No. 328 of the Public
20 Acts of 1931, as amended, being sections 750.135 to 750.145c and
21 750.520b to 750.520g of the Michigan Compiled Laws, when a viola-
22 tion of these sections has occurred.

23 (9) ~~-(8)-~~ Schools and other institutions shall cooperate
24 with the department during an investigation of a report of child
25 abuse or neglect. Cooperation includes allowing access to the
26 child without parental consent if access is necessary to complete
27 the investigation or to prevent abuse or neglect of the child.

1 However, the person responsible for the child's health or welfare
2 shall be notified of the department's contact with the child at
3 the time or as soon afterward as the person can be reached and no
4 child shall be subjected to a search at a school which requires
5 the child to remove his or her clothing to expose his buttocks or
6 genitalia or her breasts, buttocks or genitalia unless the
7 department has obtained an order from a court of competent juris-
8 diction permitting such a search. If the access occurs within a
9 hospital, the investigation shall be conducted so as not to
10 interfere with the medical treatment of the child or other
11 patients.

12 (10) ~~—(9)—~~ Upon completion of the investigation by the local
13 law enforcement agency or the department, the law enforcement
14 agency or department may inform the person who made the report as
15 to the disposition of the report.