



**Senate Fiscal Agency**  
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BILL



ANALYSIS

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Senate Bill 446 (as introduced 4-18-95)  
Sponsor: Senator Michael J. Bouchard  
Committee: Judiciary

Date Completed: 9-9-96

## **CONTENT**

**The bill would amend the Michigan Penal Code to revise and add definitions pertaining to child abuse offenses and to specify that a person would not be guilty of child abuse solely because he or she gave or relied upon treatment by spiritual means through prayer alone in lieu of medical treatment in accordance with the practices and tenets of a recognized religious method of healing.**

The bill would define "child abuse" as "harm or threatened harm to a child's health or welfare that occurs through nonaccidental physical or mental injury; sexual abuse; sexual exploitation; or maltreatment". "Sexual abuse" would mean sexual contact or penetration and "sexual exploitation" would include allowing or encouraging a child to engage in prostitution, or allowing, encouraging, or engaging in photographing, filming, or depicting a child engaged in a sexual act. "Omission" would mean failure to act, if a person responsible for a child's welfare knew that another person intended to cause, was causing, or had intentionally or recklessly caused physical harm, serious physical harm, or serious mental harm to a child, and the person responsible for the child's welfare were physically or emotionally capable of preventing the harm from occurring or being repeated. The Code's current definition of "omission" (i.e., "a willful failure to provide the food, clothing, or shelter necessary for a child's welfare or the willful abandonment of a child") would mean "neglect". In addition, the bill provides that "serious physical harm" would include, but not be limited to, "brain damage, skull or bone fracture, subdural hemorrhage or hematoma, dislocation, sprains, internal injuries, poisoning, burns, scalds, severe cuts, or any other physical injury that seriously impairs the health or physical well-being of a child".

Under the Code, a person is guilty of second-degree child abuse if his or her omission or reckless act causes serious physical harm or serious mental harm to a child, or fourth-degree child abuse if the omission or reckless act causes physical harm. Under the bill, a person responsible for a child's welfare would be guilty of second-degree child abuse if the person's neglect caused or omission resulted in serious physical or serious mental harm to that child, or fourth-degree child abuse if the neglect caused or omission resulted in physical harm. First- and third-degree child abuse (committed intentionally or knowingly) also would have to be committed by a person responsible for the child's welfare.

MCL 750.136b

Legislative Analyst: P. Affholter

## **FISCAL IMPACT**

The bill would have an indeterminate impact on State and local government. In 1995, there were 176 felony convictions for child abuse (MCL 750.136b), in which 28 defendants (16%) received a prison sentence. It is not known whether the expanded and new definitions in the bill would result in increased child abuse convictions or how many of these new convictions would result in additional prison sentences. To the extent that the number of convictions increased as a result of the bill, costs for apprehending, prosecuting, and sanctioning these offenders at the State and local levels would increase.

Fiscal Analyst: M. Hansen

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.