



SENATE BILL No. 446

April 18, 1995, Introduced by Senator BOUCHARD and referred to the Committee on Families, Mental Health and Human Services.

A bill to amend section 136b of Act No. 328 of the Public Acts of 1931, entitled as amended

"The Michigan penal code,"

as added by Act No. 251 of the Public Acts of 1988, being section 750.136b of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 136b of Act No. 328 of the Public Acts
2 of 1931, as added by Act No. 251 of the Public Acts of 1988,
3 being section 750.136b of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 136b. (1) As used in this section:

6 (a) "Child" means a person who is less than 18 years of
7 age. ~~and is not emancipated by operation of law as provided in~~
8 ~~section 4(1) of Act No. 293 of the Public Acts of 1968, being~~
9 ~~section 722.4 of the Michigan Compiled Laws.~~

1 (B) "CHILD ABUSE" MEANS HARM OR THREATENED HARM TO A CHILD'S
2 HEALTH OR WELFARE THAT OCCURS THROUGH NONACCIDENTAL PHYSICAL OR
3 MENTAL INJURY; SEXUAL ABUSE; SEXUAL EXPLOITATION; OR
4 MALTREATMENT.

5 (C) ~~(b)~~ ~~"Omission"~~ "NEGLECT" means a willful failure to
6 provide the food, clothing, or shelter necessary for a child's
7 welfare or the willful abandonment of a child.

8 (D) "OMISSION" MEANS A FAILURE TO ACT IF A PERSON RESPONSIB-
9 BLE FOR THE CHILD'S WELFARE KNOWS THAT ANOTHER PERSON INTENDS TO
10 CAUSE, IS CAUSING, OR HAS INTENTIONALLY OR RECKLESSLY CAUSED
11 PHYSICAL HARM, SERIOUS PHYSICAL HARM, OR SERIOUS MENTAL HARM TO A
12 CHILD AND THE PERSON RESPONSIBLE FOR THE CHILD'S WELFARE IS PHYS-
13 ICALLY AND EMOTIONALLY CAPABLE OF TAKING ACTION THAT WOULD PRE-
14 VENT THE HARM FROM OCCURRING OR BEING REPEATED.

15 (E) ~~(c)~~ "Person RESPONSIBLE FOR THE CHILD'S WELFARE" means
16 a child's parent or guardian or any other person who cares for,
17 has custody of, or has authority over a child regardless of the
18 length of time that ~~a~~ THE child is cared for BY, in the custody
19 of, or subject to the authority of that person.

20 (F) ~~(d)~~ "Physical harm" means any injury to a child's
21 physical condition.

22 (G) ~~(e)~~ "Serious physical harm" means an injury ~~of~~ TO a
23 child's physical condition or welfare that is not necessarily
24 permanent but THAT constitutes substantial bodily disfigurement,
25 or seriously impairs the function of a body organ or limb.

26 SERIOUS PHYSICAL HARM INCLUDES, BUT IS NOT LIMITED TO, BRAIN
27 DAMAGE, SKULL OR BONE FRACTURE, SUBDURAL HEMORRHAGE OR HEMATOMA,

1 DISLOCATION, SPRAINS, INTERNAL INJURIES, POISONING, BURNS,
2 SCALDS, SEVERE CUTS, OR ANY OTHER PHYSICAL INJURY THAT SERIOUSLY
3 IMPAIRS THE HEALTH OR PHYSICAL WELL-BEING OF A CHILD.

4 (H) ~~-(f)-~~ "Serious mental harm" means an injury to a child's
5 mental condition or welfare that is not necessarily permanent but
6 THAT results in visibly demonstrable manifestations of a substan-
7 tial disorder of thought or mood ~~-which-~~ THAT significantly
8 impairs judgment, behavior, capacity to recognize reality, or
9 ability to cope with the ordinary demands of life.

10 (I) "SEXUAL ABUSE" MEANS SEXUAL CONTACT OR SEXUAL PENETRA-
11 TION AS DEFINED IN SECTION 520A.

12 (J) "SEXUAL EXPLOITATION" INCLUDES ALLOWING, PERMITTING, OR
13 ENCOURAGING A CHILD TO ENGAGE IN PROSTITUTION, OR ALLOWING, PER-
14 MITTING, ENCOURAGING, OR ENGAGING IN THE PHOTOGRAPHING, FILMING,
15 OR DEPICTING OF A CHILD ENGAGED IN A LISTED SEXUAL ACT AS DEFINED
16 IN SECTION 145C.

17 (2) A person RESPONSIBLE FOR THE CHILD'S WELFARE is guilty
18 of child abuse in the first degree if the person knowingly or
19 intentionally COMMITS CHILD ABUSE THAT causes serious physical or
20 serious mental harm to a child. Child abuse in the first degree
21 is a felony punishable by imprisonment for not more than 15
22 years.

23 (3) A person RESPONSIBLE FOR THE CHILD'S WELFARE is guilty
24 of child abuse in the second degree if the person's ~~-omission-~~
25 NEGLECT causes OR OMISSION RESULTS IN serious physical harm or
26 serious mental harm to a child or if the person's reckless act
27 causes serious physical harm to a child. Child abuse in the

1 second degree is a felony punishable by imprisonment for not more
2 than 4 years.

3 (4) A person RESPONSIBLE FOR THE CHILD'S WELFARE is guilty
4 of child abuse in the third degree if the person knowingly or
5 intentionally COMMITS CHILD ABUSE THAT causes physical harm to a
6 child. Child abuse in the third degree is a misdemeanor punish-
7 able by imprisonment for not more than 2 years.

8 (5) A person RESPONSIBLE FOR THE CHILD'S WELFARE is guilty
9 of child abuse in the fourth degree if the person's ~~omission~~
10 NEGLECT or reckless act causes OR OMISSION RESULTS IN physical
11 harm to a child. Child abuse in the fourth degree is a misde-
12 meanor punishable by imprisonment for not more than 1 year.

13 (6) This section shall not be construed to prohibit a parent
14 or guardian, or other person permitted by law or authorized by
15 the parent or guardian, from taking steps to reasonably disci-
16 pline a child, including the use of reasonable force.

17 (7) A PERSON IS NOT GUILTY OF AN OFFENSE UNDER THIS SECTION
18 SOLELY BECAUSE THE PERSON GIVES OR RELIES UPON TREATMENT BY SPIR-
19 ITUAL MEANS THROUGH PRAYER ALONE IN LIEU OF MEDICAL TREATMENT IN
20 ACCORDANCE WITH THE TENETS AND PRACTICES OF A RECOGNIZED RELI-
21 GIOUS METHOD OF HEALING.