



SENATE BILL No. 994

May 1, 1996, Introduced by Senator BERRYMAN and referred to the Committee on Families, Mental Health and Human Services.

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~~ UNDER this act, the department shall refer the
7 report to the prosecuting attorney if the report meets the
8 requirements of section 3(6) or shall commence an investigation
9 of the child suspected of being abused or neglected. Within

1 24 hours after receiving a report whether from the reporting
2 person or from the department under section 3(6), the local law
3 enforcement agency shall refer the report to the department if
4 the report meets the requirements of section 3(7) or shall com-
5 mence an investigation of the child suspected of being abused or
6 neglected. If the child suspected of being abused is not in the
7 physical custody of the parent or legal guardian and informing
8 the parent or legal guardian would not endanger the child's
9 health or welfare, the agency or the department shall inform the
10 child's parent or legal guardian of the investigation as soon as
11 the agency or the department discovers the identity of the
12 child's parent or legal 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:

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. IF THE INVESTIGATION BY THE DEPARTMENT SUB-
5 STANTIATES THE SEXUAL ABUSE OR EXPLOITATION SO THAT MAINTENANCE
6 OF A CENTRAL REGISTRY RECORD IS REQUIRED UNDER SECTION 7, THE
7 DEPARTMENT SHALL IMMEDIATELY PETITION THE PROBATE COURT TO TAKE
8 JURISDICTION OF THE CHILD UNDER SECTION 2(B) OF CHAPTER XIIA OF
9 ACT NO. 288 OF THE PUBLIC ACTS OF 1939, BEING SECTION 712A.2 OF
10 THE MICHIGAN COMPILED LAWS, AS PROVIDED IN SECTION 13A OF CHAPTER
11 XIIA OF ACT NO. 288 OF THE PUBLIC ACTS OF 1939, BEING SECTION
12 712A.13A OF THE MICHIGAN COMPILED LAWS.

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

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

23 (e) The alleged perpetrator of the child's injury is not ~~a~~
24 ~~person~~ AN INDIVIDUAL responsible for the child's health or
25 welfare.

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

4 (5) Involvement of law enforcement officials ~~pursuant to~~
5 AS PROVIDED IN this section ~~shall~~ DOES not relieve or prevent
6 the department from proceeding with its investigation or treat-
7 ment if there is reasonable cause to suspect that the child abuse
8 or neglect was committed by a person responsible for the child's
9 health or welfare.

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

13 (7) If there is reasonable cause to suspect that a child in
14 the care of or under the control of a public or private agency,
15 institution, or facility is an abused or neglected child, the
16 agency, institution, or facility shall be investigated by an
17 agency administratively independent of the agency, institution,
18 or facility being investigated. If the investigation produces
19 evidence of a violation of section 136B OR 145c or sections 520b
20 to 520g of the Michigan penal code, Act No. 328 of the Public
21 Acts of 1931, being sections 750.136B, 750.145c, and 750.520b to
22 750.520g of the Michigan Compiled Laws, the investigating agency
23 shall transmit a copy of the results of the investigation to the
24 prosecuting attorney of the county in which the agency, institu-
25 tion, or facility is located. The prosecuting attorney may pro-
26 ceed under ~~sections 135 to~~ SECTION 136B, 145c, or 520b to 520g
27 of Act No. 328 of the Public Acts of 1931 ~~, as amended, being~~

1 ~~sections 750.135 to 750.145c and 750.520b to 750.520g of the~~
2 ~~Michigan Compiled Laws,~~ when a violation OF ANY of these sec-
3 tions has occurred. IF THE DEPARTMENT DOES NOT PETITION THE PRO-
4 BATE COURT AS REQUIRED BY SUBSECTION (3)(B), THE PROSECUTING
5 ATTORNEY SHALL FILE THE PETITION WITH THE PROBATE COURT.

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

22 (9) Upon completion of the investigation by the local law
23 enforcement agency or the department, the law enforcement agency
24 or department may inform the person who made the report as to the
25 disposition of the report.

1 Section 2. This amendatory act shall not take effect unless
2 Senate Bill No. 995
3 of the 88th Legislature is enacted into law.