

**SUBSTITUTE FOR
SENATE BILL NO. 603**

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending sections 2 and 8 (MCL 722.622 and 722.628), section 2
as amended by 1996 PA 581 and section 8 as amended by 1997
PA 166, and by adding section 8d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Central registry" means the system maintained at the
3 department that is used to keep a record of all reports filed
4 with the department pursuant to this act in which relevant and
5 accurate evidence of child abuse or neglect is found to exist.

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

7 (c) "Child abuse" means harm or threatened harm to a child's
8 health or welfare by a parent, legal guardian, or any other
9 person responsible for the child's health or welfare, or by a

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1 teacher or teacher's aide, that occurs through nonaccidental
2 physical or mental injury; sexual abuse; sexual exploitation; or
3 maltreatment.

4 (d) "Child neglect" means harm or threatened harm to a
5 child's health or welfare by a parent, legal guardian, or any
6 other person responsible for the child's health or welfare that
7 occurs through either of the following:

8 (i) Negligent treatment, including the failure to provide
9 adequate food, clothing, shelter, or medical care.

10 (ii) Placing a child at an unreasonable risk to the child's
11 health or welfare by failure of the parent, legal guardian, or
12 any other person responsible for the child's health or welfare to
13 intervene to eliminate that risk when that person is able to do
14 so and has, or should have, knowledge of the risk.

15 (e) "Controlled substance" means that term as defined in
16 section 7104 of the public health code, ~~Act No. 368 of the~~
17 ~~Public Acts of 1978, being section 333.7104 of the Michigan~~
18 ~~Compiled Laws~~ 1978 PA 368, MCL 333.7104.

19 (F) "CPSI SYSTEM" MEANS THE CHILD PROTECTIVE SERVICE INFOR-
20 MATION SYSTEM, WHICH IS AN INTERNAL DATA SYSTEM MAINTAINED WITHIN
21 AND BY THE DEPARTMENT, AND WHICH IS SEPARATE FROM THE CENTRAL
22 REGISTRY AND NOT SUBJECT TO SECTION 7.

23 (G) ~~(f)~~ "Department" means the family independence
24 agency.

25 (H) ~~(g)~~ "Director" means the director of the department.

26 (I) ~~(h)~~ "Expunge" means to physically remove or eliminate
27 and destroy a record or report.

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1 (J) ~~(i)~~ "Local office file" means the system used to keep
2 a record of a written report, document, or photograph filed with
3 and maintained by a county or a regionally based office of the
4 department.

5 (K) ~~(j)~~ "Person responsible for the child's health or
6 welfare" means a parent, legal guardian, person 18 years of age
7 or older who resides for any length of time in the same home in
8 which the child resides, or an owner, operator, volunteer, or
9 employee of any of the following:

10 (i) A licensed or unlicensed child care organization as
11 defined in section 1 of ~~Act No. 116 of the Public Acts of 1973,~~
12 ~~being section 722.111 of the Michigan Compiled Laws~~ 1973 PA 116,
13 MCL 722.111.

14 (ii) A licensed or unlicensed adult foster care family home
15 or adult foster care small group home as defined in section 3 of
16 the adult foster care facility licensing act, ~~Act No. 218 of the~~
17 ~~Public Acts of 1979, being section 400.703 of the Michigan~~
18 ~~Compiled Laws~~ 1979 PA 218, MCL 400.703.

19 (l) ~~(k)~~ "Relevant evidence" means evidence having a ten-
20 dency to make the existence of a fact that is at issue more prob-
21 able than it would be without the evidence.

22 (M) ~~(i)~~ "Sexual abuse" means engaging in sexual contact or
23 sexual penetration as defined in section 520a of the Michigan
24 penal code, ~~Act No. 328 of the Public Acts of 1931, being sec-~~
25 ~~tion 750.520a of the Michigan Compiled Laws~~ 1931 PA 328, MCL
26 750.520A, with a child.

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1 (N) ~~(m)~~ "Sexual exploitation" includes allowing,
2 permitting, or encouraging a child to engage in prostitution, or
3 allowing, permitting, encouraging, or engaging in the photograph-
4 ing, filming, or depicting of a child engaged in a listed sexual
5 act as defined in section 145c of ~~Act No. 328 of the Public Acts~~
6 ~~of 1931, being section 750.145c of the Michigan Compiled Laws~~
7 1931 PA 328, MCL 750.145C.

8 (O) "STRUCTURED DECISION-MAKING TOOL" MEANS THE DEPARTMENT
9 DOCUMENT LABELED "DSS-4752 (P3)(3-95)" OR A REVISION OF THAT DOC-
10 UMENT THAT BETTER MEASURES THE RISK OF FUTURE HARM TO A CHILD.

11 Sec. 8. (1) Within 24 hours after receiving a report made
12 under this act, the department shall refer the report to the
13 prosecuting attorney if the report meets the requirements of
14 section 3(6) or shall commence an investigation of the child sus-
15 pected of being abused or neglected. Within 24 hours after
16 receiving a report whether from the reporting person or from the
17 department under section 3(6), the local law enforcement agency
18 shall refer the report to the department if the report meets the
19 requirements of section 3(7) or shall commence an investigation
20 of the child suspected of being abused or neglected. If the
21 child suspected of being abused is not in the physical custody of
22 the parent or legal guardian and informing the parent or legal
23 guardian would not endanger the child's health or welfare, the
24 agency or the department shall inform the child's parent or legal
25 guardian of the investigation as soon as the agency or the
26 department discovers the identity of the child's parent or legal
27 guardian.

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1 (2) In the course of its investigation, the department shall
2 determine if the child is abused or neglected. The department
3 shall cooperate with law enforcement officials, courts of compe-
4 tent jurisdiction, and appropriate state agencies providing human
5 services in relation to preventing, identifying, and treating
6 child abuse and neglect; shall provide, enlist, and coordinate
7 the necessary services, directly or through the purchase of serv-
8 ices from other agencies and professions; and shall take neces-
9 sary action to prevent further abuses, to safeguard and enhance
10 the CHILD'S welfare, ~~of the child,~~ and to preserve family life
11 where possible.

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

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

18 (b) The child is the victim of suspected sexual abuse or
19 sexual exploitation.

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

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1 (d) Law enforcement intervention is necessary for the
2 protection of the child, a department employee, or another person
3 involved in the investigation.

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

6 (4) Law enforcement officials shall cooperate with the
7 department in conducting investigations under subsections (1) and
8 (3) and shall comply with sections 5 and 7. The department and
9 law enforcement officials shall conduct investigations in compli-
10 ance with the protocol adopted and implemented as required by
11 subsection (6).

12 (5) Involvement of law enforcement officials under this sec-
13 tion does not relieve or prevent the department from proceeding
14 with its investigation or treatment if there is reasonable cause
15 to suspect that the child abuse or neglect was committed by a
16 person responsible for the child's health or welfare.

17 (6) In each county, the prosecuting attorney and the depart-
18 ment shall develop and establish procedures for involving law
19 enforcement officials as provided in this section. In each
20 county, the prosecuting attorney and the department shall adopt
21 and implement a standard child abuse and neglect investigation
22 and interview protocol using as a model the protocol developed by
23 the governor's task force on children's justice as published in
24 DSS Publication 794 (8-93).

25 (7) If there is reasonable cause to suspect that a child in
26 the care of or under the control of a public or private agency,
27 institution, or facility is an abused or neglected child, the

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1 agency, institution, or facility shall be investigated by an
2 agency administratively independent of the agency, institution,
3 or facility being investigated. If the investigation produces
4 evidence of a violation of section 145c or sections 520b to 520g
5 of the Michigan penal code, 1931 PA 328, MCL 750.145c and
6 750.520b to 750.520g, the investigating agency shall transmit a
7 copy of the results of the investigation to the prosecuting
8 attorney of the county in which the agency, institution, or
9 facility is located.

10 (8) ~~Schools and other institutions~~ A SCHOOL OR OTHER
11 INSTITUTION shall cooperate with the department during an inves-
12 tigation of a report of child abuse or neglect. Cooperation
13 includes allowing access to the child without parental consent if
14 access is DETERMINED BY THE DEPARTMENT TO BE necessary to com-
15 plete the investigation or to prevent abuse or neglect of the
16 child. However, the department shall notify the person responsi-
17 ble for the child's health or welfare about the department's con-
18 tact with the child at the time or as soon afterward as the
19 person can be reached. The department may delay the notice if
20 the notice would compromise the safety of the child or child's
21 siblings or the integrity of the investigation, but only for the
22 time 1 of those conditions exists.

23 (9) If the department has contact with a child in a school,
24 all of the following apply:

25 (a) Before contact with the child, the department investiga-
26 tor shall review with the designated school staff person the

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1 department's responsibilities under this act and the
2 investigation procedure.

3 (b) After contact with the child, the department investiga-
4 tor shall meet with the designated school staff person and the
5 child about the response the department will take as a result of
6 contact with the child. The department may also meet with the
7 designated school staff person without the child present and
8 share additional information the investigator determines may be
9 shared subject to the confidentiality provisions of this act.

10 (c) Lack of cooperation by the school does not relieve or
11 prevent the department from proceeding with its responsibilities
12 under this act.

13 (10) A child shall not be subjected to a search at a school
14 that requires the child to remove his or her clothing to expose
15 his buttocks or genitalia or her breasts, buttocks, or genitalia
16 unless the department has obtained an order from a court of com-
17 petent jurisdiction permitting such a search. If the access
18 occurs within a hospital, the investigation shall be conducted so
19 as not to interfere with the medical treatment of the child or
20 other patients.

21 (11) THE DEPARTMENT SHALL ENTER EACH REPORT MADE UNDER THIS
22 ACT THAT IS THE SUBJECT OF A FIELD INVESTIGATION INTO THE CPSI
23 SYSTEM. THE DEPARTMENT SHALL MAINTAIN A REPORT ENTERED ON THE
24 CPSI SYSTEM AS REQUIRED BY THIS SUBSECTION UNTIL THE CHILD ABOUT
25 WHOM THE INVESTIGATION IS MADE IS 18 YEARS OLD OR UNTIL 10 YEARS
26 AFTER THE INVESTIGATION IS COMMENCED, WHICHEVER IS LATER. A
27 REPORT THAT IS MAINTAINED ON THE CPSI SYSTEM IS CONFIDENTIAL AND

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1 IS NOT SUBJECT TO THE DISCLOSURE REQUIREMENTS OF THE FREEDOM OF
2 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246. AFTER COM-
3 PLETING A FIELD INVESTIGATION AND BASED ON ITS RESULTS, THE
4 DEPARTMENT SHALL DETERMINE IN WHICH SINGLE CATEGORY, PRESCRIBED
5 BY SECTION 8D, TO CLASSIFY THE ALLEGATION OF CHILD ABUSE OR
6 NEGLECT.

7 (12) ~~(11)~~ Except as provided in subsection ~~(12)~~ (13),
8 upon completion of the investigation by the local law enforcement
9 agency or the department, the law enforcement agency or depart-
10 ment may inform the person who made the report as to the disposi-
11 tion of the report.

12 (13) ~~(12)~~ If the person who made the report is mandated to
13 report under section 3, upon completion of the investigation by
14 the department, the department shall inform the person in writing
15 as to the disposition of the case and shall include in the infor-
16 mation at least all of the following:

17 (a) ~~Whether the case was substantiated~~ WHAT DETERMINATION
18 THE DEPARTMENT MADE UNDER SUBSECTION (11) and the rationale for
19 that decision.

20 (b) Whether legal action was commenced and, if so, the
21 nature of that action.

22 (c) Notification that the information being conveyed is
23 confidential.

24 (14) ~~(13)~~ Information sent under subsection ~~(12)~~ (13)
25 shall not include personally identifying information for a person
26 named in a report or record made under this act.

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1 SEC. 8D. (1) FOR THE DEPARTMENT'S DETERMINATION REQUIRED BY
2 SECTION 8, THE CATEGORIES, AND THE DEPARTMENTAL RESPONSE REQUIRED
3 FOR EACH CATEGORY, ARE THE FOLLOWING:

4 (A) CATEGORY V - SERVICES NOT NEEDED. THE DEPARTMENT DETER-
5 MINES THAT THE ALLEGATION DOES NOT AMOUNT TO CHILD ABUSE OR
6 NEGLECT, AND THE STRUCTURED DECISION-MAKING TOOL INDICATES THAT
7 THERE IS NO FUTURE RISK OF HARM TO THE CHILD. THIS ACT DOES NOT
8 REQUIRE A FURTHER RESPONSE BY THE DEPARTMENT.

9 (B) CATEGORY IV - COMMUNITY SERVICES RECOMMENDED. THE
10 DEPARTMENT DETERMINES THAT THERE IS NOT EVIDENCE OF CHILD ABUSE
11 OR NEGLECT, BUT THE STRUCTURED DECISION-MAKING TOOL INDICATES A
12 LOW OR MODERATE RISK OF FUTURE HARM TO THE CHILD. THE DEPARTMENT
13 SHALL ASSIST THE CHILD'S FAMILY IN VOLUNTARILY PARTICIPATING IN
14 COMMUNITY-BASED SERVICES.

15 (C) CATEGORY III - COMMUNITY SERVICES NEEDED. THE DEPART-
16 MENT DETERMINES THAT THERE IS EVIDENCE OF CHILD ABUSE OR NEGLECT,
17 AND THE STRUCTURED DECISION-MAKING TOOL INDICATES A LOW OR MODER-
18 ATE RISK OF FUTURE HARM TO THE CHILD. THE DEPARTMENT SHALL
19 ASSIST THE CHILD'S FAMILY IN RECEIVING COMMUNITY-BASED SERVICES.
20 IF THE FAMILY DOES NOT VOLUNTARILY PARTICIPATE IN SERVICES, THE
21 DEPARTMENT MAY RECLASSIFY THE CASE AS CATEGORY II.

22 (D) CATEGORY II - CHILD PROTECTIVE SERVICES REQUIRED. THE
23 DEPARTMENT DETERMINES THAT THERE IS EVIDENCE OF CHILD ABUSE OR
24 NEGLECT, AND THE STRUCTURED DECISION-MAKING TOOL INDICATES A HIGH
25 OR INTENSIVE RISK OF FUTURE HARM TO THE CHILD. THE DEPARTMENT
26 SHALL OPEN A PROTECTIVE SERVICES CASE AND PROVIDE THE SERVICES
27 NECESSARY UNDER THIS ACT. THE DEPARTMENT SHALL ALSO LIST THE

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1 PERPETRATOR OF THE CHILD ABUSE OR NEGLECT, BASED ON THE REPORT
2 THAT WAS THE SUBJECT OF THE FIELD INVESTIGATION, ON THE CENTRAL
3 REGISTRY, EITHER BY NAME OR AS "UNKNOWN" IF THE PERPETRATOR HAS
4 NOT BEEN IDENTIFIED.

5 (E) CATEGORY I - COURT PETITION REQUIRED. THE DEPARTMENT
6 DETERMINES THAT THERE IS EVIDENCE OF CHILD ABUSE OR NEGLECT AND 1
7 OR MORE OF THE FOLLOWING ARE TRUE:

8 (i) A COURT PETITION IS REQUIRED UNDER ANOTHER PROVISION OF
9 THIS ACT.

10 (ii) THE CHILD IS NOT SAFE AND A PETITION FOR REMOVAL IS
11 NEEDED.

12 (iii) THE DEPARTMENT PREVIOUSLY CLASSIFIED THE CASE AS CATE-
13 GORY II AND THE CHILD'S FAMILY DOES NOT VOLUNTARILY PARTICIPATE
14 IN SERVICES.

15 (iv) THERE IS A VIOLATION, INVOLVING THE CHILD, OF A CRIME
16 LISTED OR DESCRIBED IN SECTION 8A(1)(B), (C), (D), OR (F) OR OF
17 CHILD ABUSE IN THE FIRST OR SECOND DEGREE AS PRESCRIBED BY SEC-
18 TION 136B OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.136B.

19 (2) IN RESPONSE TO A CATEGORY I CLASSIFICATION, THE DEPART-
20 MENT SHALL DO ALL OF THE FOLLOWING:

21 (A) IF A COURT PETITION IS NOT REQUIRED UNDER ANOTHER PROVI-
22 SION OF THIS ACT, SUBMIT A PETITION FOR AUTHORIZATION BY THE
23 COURT UNDER SECTION 2(B) OF CHAPTER XIIA OF 1939 PA 288, MCL
24 712A.2.

25 (B) OPEN A PROTECTIVE SERVICES CASE AND PROVIDE THE SERVICES
26 NECESSARY UNDER THIS ACT.

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1 (C) LIST THE PERPETRATOR OF THE CHILD ABUSE OR NEGLECT,
2 BASED ON THE REPORT THAT WAS THE SUBJECT OF THE FIELD
3 INVESTIGATION, ON THE CENTRAL REGISTRY, EITHER BY NAME OR AS
4 "UNKNOWN" IF THE PERPETRATOR HAS NOT BEEN IDENTIFIED.