

S.B. 884

A bill to amend 1937 (Ex Sess) PA 4, entitled

"An act relative to continuing tenure of office of certificated teachers in public educational institutions; to provide for probationary periods; to regulate discharges or demotions; to provide for resignations and leaves of absence; to create a state tenure commission and to prescribe the powers and duties thereof; and to prescribe penalties for violation of the provisions of this act,"

by amending section 4a (MCL 38.104a), as added by 1987 PA 47.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4a. (1) As used in this section:

2 (a) "Developmental disability" means ~~an impairment of gen-~~
3 ~~eral intellectual functioning or adaptive behavior which meets~~
4 ~~the following criteria: (i) It originated before the person~~
5 ~~became 18 years of age. (ii) It has continued since its origina-~~
6 ~~tion or can be expected to continue indefinitely. (iii) It~~
7 ~~constitutes a substantial burden to the impaired person's ability~~
8 ~~to perform normally in society. (iv) It is attributable to~~

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1 ~~mental retardation, autism, or any other condition of a person~~
2 ~~found closely related to mental retardation because it produces a~~
3 ~~similar impairment or requires treatment and services similar to~~
4 ~~those required for a person who is mentally retarded.~~ THAT TERM
5 AS DEFINED IN SECTION 100A OF THE MENTAL HEALTH CODE, 1974 PA
6 258, MCL 330.1100A [EXCEPT THAT, FOR THE PURPOSES OF IMPLEMENTING
THIS SECTION, DEVELOPMENTAL DISABILITY INCLUDES ONLY A CONDITION
THAT IS ATTRIBUTABLE TO A MENTAL IMPAIRMENT OR TO A COMBINATION OF
MENTAL AND PHYSICAL IMPAIRMENTS, AND DOES NOT INCLUDE A CONDITION
ATTRIBUTABLE TO A PHYSICAL IMPAIRMENT UNACCOMPANIED BY A MENTAL
IMPAIRMENT].

7 (b) "Witness" means an alleged victim under subsection (2)
8 who is either of the following:

9 (i) A person under ~~15~~ 16 years of age.

10 (ii) A person ~~15~~ 16 years of age or older with a develop-
11 mental disability.

12 (2) This section only applies to a hearing held ~~pursuant~~
13 ~~to~~ UNDER this article ~~where~~ IN WHICH a witness testifies as an
14 alleged victim of sexual, physical, or psychological abuse.

15 ~~"Psychological"~~ AS USED IN THIS SUBSECTION, "PSYCHOLOGICAL
16 abuse" means an injury to ~~a child's~~ THE WITNESS'S mental condi-
17 tion or welfare that is not necessarily permanent but results in
18 substantial and protracted, visibly demonstrable manifestations
19 of mental distress.

20 (3) If pertinent, the witness shall be permitted the use of
21 dolls or mannequins, including, but not limited to, anatomically
22 correct dolls or mannequins, to assist the witness in testifying
23 on direct and cross-examination.

24 (4) A witness who is called upon to testify shall be permit-
25 ted to have a support person sit with, accompany, or be in close
26 proximity to the witness during his or her testimony. A notice
27 of intent to use a support person shall name the support person,

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1 identify the relationship the support person has with the
2 witness, and ~~shall~~ give notice to all parties to the proceeding

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3 that the witness may request that the named support person sit
4 with the witness when the witness is called upon to testify
5 during any stage of the proceeding. The notice of intent to use
6 a named support person shall be served upon all parties to the
7 proceeding. The controlling board shall rule on any objection to
8 the use of a named support person prior to the date at which the
9 witness desires to use the support person.

10 (5) In a hearing under this section, all persons not neces-
11 sary to the proceeding shall be excluded during the witness's
12 testimony.

13 (6) This section is in addition to other protections or pro-
14 cedures afforded to a witness by law or court rule.

15 ~~(7) This section applies to hearings beginning on or after~~
16 ~~January 1, 1988.~~

17 ~~(8) This section shall take effect January 1, 1988.~~