

S.B. 885

A bill to amend 1969 PA 306, entitled  
"Administrative procedures act of 1969,"  
by amending section 75a (MCL 24.275a), as added by 1987 PA 46.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 75a. (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 con-~~  
7 ~~stitutes a substantial burden to the impaired person's ability to~~  
8 ~~perform normally in society. (iv) It is attributable to mental~~  
9 ~~retardation, autism, or any other condition of a person found~~  
10 ~~related to mental retardation because it produces a similar~~  
11 ~~impairment or requires treatment and services similar to those~~

1 ~~required for a person who is mentally retarded.~~ THAT TERM AS  
2 DEFINED IN SECTION 100A OF THE MENTAL HEALTH CODE, 1974 PA 258,  
3 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].

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

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

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

9 (2) This section only applies to a contested case ~~where~~ IN  
10 WHICH a witness testifies as an alleged victim of sexual, physi-  
11 cal, or psychological abuse. ~~"Psychological"~~ AS USED IN THIS  
12 SUBSECTION, "PSYCHOLOGICAL abuse" means an injury to ~~a child's~~  
13 THE WITNESS'S mental condition or welfare that is not necessarily  
14 permanent but results in substantial and protracted, visibly  
15 demonstrable manifestations of mental distress.

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

20 (4) A witness who is called upon to testify shall be permit-  
21 ted to have a support person sit with, accompany, or be in close  
22 proximity to the witness during his or her testimony. A notice  
23 of intent to use a support person shall name the support person,  
24 identify the relationship the support person has with the wit-  
25 ness, and ~~shall~~ give notice to all parties to the proceeding  
26 that the witness may request that the named support person sit  
27 with the witness when the witness is called upon to testify

1 during any stage of the proceeding. The notice of intent to use  
2 a named support person shall be served upon all parties to the  
3 proceeding. The agency shall rule on any objection to the use of  
4 a named support person prior to the date at which the witness  
5 desires to use the support person.

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

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

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

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