



# HOUSE BILL No. 6081

October 4, 2000, Introduced by Reps. DeRossett, Hager, Julian, Tabor, Gilbert, Patterson, Koetje, Lockwood, Jamnick and Ehardt and referred to the Committee on Family and Children Services.

A bill to amend 1975 PA 238, entitled  
"Child protection law,"  
by amending sections 2, 3, and 18 (MCL 722.622, 722.623, and  
722.638), section 2 as amended by 2000 PA 45, section 3 as  
amended by 1994 PA 177, and section 18 as amended by 1998 PA 428,  
and by adding section 8e.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 2. As used in this act:

(a) "Attorney" means, if appointed to represent a child  
under the provisions referenced in section 10, an attorney serv-  
ing as the child's legal advocate in the manner defined and  
described in section 13a of chapter XIIIA of the probate code of  
1939, 1939 PA 288, MCL 712A.13a.

(b) "Central registry" means the system maintained at the  
department that is used to keep a record of all reports filed

1 with the department ~~pursuant to~~ UNDER this act in which  
2 relevant and accurate evidence of child abuse or neglect is found  
3 to exist.

4 (c) "Central registry case" means a child protective serv-  
5 ices case that the department classifies under sections 8 and 8d  
6 as category I or category II. For a child protective services  
7 case that was investigated before July 1, 1999, central registry  
8 case means an allegation of child abuse or neglect that the  
9 department substantiated.

10 (d) "Child" means a person under 18 years of age.

11 (e) "Child abuse" means harm or threatened harm to a child's  
12 health or welfare by a parent, a legal guardian, or any other  
13 person responsible for the child's health or welfare, or by a  
14 teacher or teacher's aide, that occurs through nonaccidental  
15 physical or mental injury; sexual abuse; sexual exploitation; or  
16 maltreatment.

17 (f) "Child neglect" means harm or threatened harm to a  
18 child's health or welfare by a parent, legal guardian, or any  
19 other person responsible for the child's health or welfare that  
20 occurs through either of the following:

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

23 (ii) Placing a child at an unreasonable risk to the child's  
24 health or welfare by failure of the parent, legal guardian, or  
25 other person responsible for the child's health or welfare to  
26 intervene to eliminate that risk when that person is able to do  
27 so and has, or should have, knowledge of the risk.

1 (g) "Citizen review panel" means a panel established as  
2 required by section 106 of title I of the child abuse prevention  
3 and treatment act, Public Law 93-247, 42 U.S.C. 5106a.

4 (h) "Controlled substance" means that term as defined in  
5 section 7104 of the public health code, 1978 PA 368, MCL  
6 333.7104.

7 (i) "CPSI system" means the child protective service infor-  
8 mation system, which is an internal data system maintained within  
9 and by the department, and which is separate from the central  
10 registry and not subject to section 7.

11 (j) "Department" means the family independence agency.

12 (k) "Director" means the director of the department.

13 (l) "Expunge" means to physically remove or eliminate and  
14 destroy a record or report.

15 (m) "Lawyer-guardian ad litem" means an attorney appointed  
16 under section 10 who has the powers and duties referenced by sec-  
17 tion 10.

18 (n) "Local office file" means the system used to keep a  
19 record of a written report, document, or photograph filed with  
20 and maintained by a county or a regionally based office of the  
21 department.

22 (o) "Nonparent adult" means a person who is 18 years of age  
23 or older and who, regardless of the person's domicile, meets all  
24 of the following criteria in relation to a child:

25 (i) Has substantial and regular contact with the child.

1       (ii) Has a close personal relationship with the child's  
2 parent or with a person responsible for the child's health or  
3 welfare.

4       (iii) Is not the child's parent or a person otherwise  
5 related to the child by blood or affinity to the third degree.

6       (p) "Person responsible for the child's health or welfare"  
7 means a parent, legal guardian, person 18 years of age or older  
8 who resides for any length of time in the same home in which the  
9 child resides, or, except when used in section 7(2)(e) or 8(8),  
10 nonparent adult; or an owner, operator, volunteer, or employee of  
11 1 or more of the following:

12       (i) A licensed or unlicensed child care organization as  
13 defined in section 1 of 1973 PA 116, 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, 1979 PA 218, MCL  
17 400.703.

18       (q) "Relevant evidence" means evidence having a tendency to  
19 make the existence of a fact that is at issue more probable than  
20 it would be without the evidence.

21       (r) "Sexual abuse" means engaging in sexual contact or  
22 sexual penetration as those terms are defined in section 520a of  
23 the Michigan penal code, 1931 PA 328, MCL 750.520a, with a  
24 child.

25       (s) "Sexual exploitation" includes allowing, permitting, or  
26 encouraging a child to engage in prostitution, or allowing,  
27 permitting, encouraging, or engaging in the photographing,

1 filming, or depicting of a child engaged in a listed sexual act  
2 as defined in section 145c of the Michigan penal code, 1931 PA  
3 328, MCL 750.145c.

4 (t) "Specified information" means information in a central  
5 registry case record that relates specifically to referrals or  
6 reports of child abuse or neglect. Specified information does  
7 not include any of the following:

8 (i) Except as provided in this subparagraph regarding a per-  
9 petrator of child abuse or neglect, personal identification  
10 information for any individual identified in a child protective  
11 services record. The exclusion of personal identification infor-  
12 mation as specified information prescribed by this subparagraph  
13 does not include personal identification information identifying  
14 an individual alleged to have perpetrated child abuse or neglect,  
15 which allegation has been classified as a central registry case.

16 (ii) Information in a law enforcement report as provided in  
17 section 7(8).

18 (iii) Any other information that is specifically designated  
19 as confidential under other law.

20 (u) "Structured decision-making tool" means the department  
21 document labeled "DSS-4752 (P3) (3-95)" or a revision of that  
22 document that better measures the risk of future harm to a  
23 child.

24 (v) "Substantiated" means a child protective services case  
25 classified as a central registry case.

26 (w) "TERMINATED IN PROCEEDINGS UNDER CHAPTER XIIA OF THE  
27 PROBATE CODE OF 1939" MEANS TERMINATION OF PARENTAL RIGHTS AS A

1 RESULT OF PROCEEDINGS UNDER, OR TERMINATION OF PARENTAL RIGHTS  
2 VOLUNTARILY FOLLOWING THE INITIATION OF PROCEEDINGS UNDER, SEC-  
3 TION 2(B) OF CHAPTER XIIA OF THE PROBATE CODE OF 1939, 1939 PA  
4 288, MCL 712A.2.

5 (X) ~~-(w)-~~ "Unsubstantiated" means a child protective serv-  
6 ices case the department classifies under sections 8 and 8d as  
7 category III, category IV, or category V.

8 Sec. 3. (1) A physician, coroner, dentist, registered  
9 dental hygienist, medical examiner, nurse, a person licensed to  
10 provide emergency medical care, audiologist, psychologist, mar-  
11 riage and family therapist, licensed professional counselor, cer-  
12 tified social worker, social worker, social work technician,  
13 school administrator, school counselor or teacher, law enforce-  
14 ment officer, or regulated child care provider who has reasonable  
15 cause to suspect child abuse or neglect shall make immediately,  
16 by telephone or otherwise, an oral report, or cause an oral  
17 report to be made, of the suspected child abuse or neglect to the  
18 department. Within 72 hours after making the oral report, the  
19 reporting person shall file a written report as required in this  
20 act. If the reporting person is a member of the staff of a hos-  
21 pital, agency, or school, the reporting person shall notify the  
22 person in charge of the hospital, agency, or school of his or her  
23 finding and that the report has been made, and shall make a copy  
24 of the written report available to the person in charge. One  
25 report from a hospital, agency, or school shall be considered  
26 adequate to meet the reporting requirement. A member of the  
27 staff of a hospital, agency, or school shall not be dismissed or

1 otherwise penalized for making a report required by this act or  
2 for cooperating in an investigation.

3       (2) The written report shall contain the name of the child  
4 and a description of the abuse or neglect. If possible, the  
5 report shall contain the names and addresses of the child's par-  
6 ents, the child's guardian, the persons with whom the child  
7 resides, and the child's age. The report shall contain other  
8 information available to the reporting person which might estab-  
9 lish the cause of the abuse or neglect, and the manner in which  
10 the abuse or neglect occurred.

11       (3) The department shall inform the reporting person of the  
12 required contents of the written report at the time the oral  
13 report is made by the reporting person.

14       (4) The written report required in this section shall be  
15 mailed or otherwise transmitted to the county ~~department of~~  
16 ~~social services~~ FAMILY INDEPENDENCE AGENCY of the county in  
17 which the child suspected of being abused or neglected is found.

18       (5) Upon receipt of a written report of suspected child  
19 abuse or neglect, the department may provide copies to the prose-  
20 cuting attorney and the ~~probate~~ FAMILY DIVISION OF CIRCUIT  
21 court of the counties in which the child suspected of being  
22 abused or neglected resides and is found.

23       (6) If the report or subsequent investigation indicates a  
24 violation of sections 136b and 145c or sections 520b to 520g of  
25 the Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~  
26 ~~being sections 750.136b, 750.145c and 750.520b to 750.520g of the~~  
27 ~~Michigan Compiled Laws~~ 1931 PA 328, MCL 750.136B, 750.145C, AND

1 750.520B TO 750.520G, or if the report or subsequent  
2 investigation indicates that the suspected abuse was not commit-  
3 ted by a person responsible for the child's health or welfare,  
4 and the department believes that the report has basis in fact,  
5 the department shall transmit a copy of the written report and  
6 the results of any investigation to the prosecuting attorney of  
7 the counties in which the child resides and is found.

8 (7) If a local law enforcement agency receives a written  
9 report of suspected child abuse or neglect, whether from the  
10 reporting person or the department, the report or subsequent  
11 investigation indicates that the abuse or neglect was committed  
12 by a person responsible for the child's health or welfare, and  
13 the local law enforcement agency believes that the report has  
14 basis in fact, the local law enforcement agency shall provide a  
15 copy of the written report and the results of any investigation  
16 to the county ~~department of social services~~ FAMILY INDEPENDENCE  
17 AGENCY of the county in which the abused or neglected child is  
18 found. Nothing in this subsection or subsection (6) shall be  
19 construed to relieve the department of its responsibility to  
20 investigate reports of suspected child abuse or neglect under  
21 this act.

22 (8) For purposes of this act, INCLUDING, BUT NOT LIMITED TO,  
23 THE REPORTING REQUIREMENT UNDER SUBSECTION (1), the pregnancy of  
24 a child less than 12 years of age or the presence of a venereal  
25 disease in a child who is over 1 month of age but less than 12  
26 years of age ~~shall be~~ IS reasonable cause to suspect child  
27 abuse ~~and~~ OR neglect. ~~have occurred.~~



1 (9) FOR THE PURPOSES OF THIS ACT, INCLUDING, BUT NOT LIMITED  
2 TO, THE REPORTING REQUIREMENT UNDER SUBSECTION (1), THE BIRTH OF  
3 A CHILD TO A PARENT WHOSE PARENTAL RIGHTS TO ANOTHER CHILD WERE  
4 TERMINATED IN PROCEEDINGS UNDER CHAPTER XIIA OF THE PROBATE CODE  
5 OF 1939 IS REASONABLE CAUSE TO SUSPECT CHILD ABUSE OR NEGLECT.  
6 THE DEPARTMENT SHALL IMPLEMENT AN AUTOMATED SYSTEM DESIGNED TO  
7 IDENTIFY, AT THE TIME OF BIRTH, CHILDREN WHO HAVE A PARENT WHOSE  
8 PARENTAL RIGHTS TO ANOTHER CHILD WERE TERMINATED IN PROCEEDINGS  
9 UNDER CHAPTER XIIA OF THE PROBATE CODE OF 1939.

10 SEC. 8E. IF, THROUGH A REPORT UNDER THIS ACT OR OTHERWISE,  
11 THE DEPARTMENT LEARNS THAT A CHILD HAS A PARENT WHOSE PARENTAL  
12 RIGHTS TO ANOTHER CHILD WERE TERMINATED IN PROCEEDINGS UNDER  
13 CHAPTER XIIA OF THE PROBATE CODE OF 1939, THAT INFORMATION IS  
14 REASONABLE CAUSE TO SUSPECT CHILD ABUSE OR NEGLECT, AND THE  
15 DEPARTMENT SHALL CONDUCT AN INVESTIGATION UNDER THIS ACT.

16 Sec. 18. (1) The department shall submit a petition for  
17 authorization by the court under section 2(b) of chapter XIIA of  
18 THE PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.2, if 1 or more  
19 of the following apply:

20 (a) The department determines that a parent, guardian, or  
21 custodian, or a person who is 18 years of age or older and who  
22 resides for any length of time in the child's home, has abused  
23 the child or a sibling of the child and the abuse included 1 or  
24 more of the following:

25 (i) Abandonment of a young child.

26 (ii) Criminal sexual conduct involving penetration,  
27 attempted penetration, or assault with intent to penetrate.

1 (iii) Battering, torture, or other severe physical abuse.

2 (iv) Loss or serious impairment of an organ or limb.

3 (v) Life threatening injury.

4 (vi) Murder or attempted murder.

5 (b) The department determines that there is risk of harm to

6 the child and ~~either of the following is true: (i) The~~ THE

7 parent's rights to another child were terminated ~~as a result of~~

8 proceedings under section 2(b) of chapter XIIA of 1939 PA 288,

9 MCL 712A.2, or a similar law of another state. ~~(ii) The parent's~~

10 rights to another child were voluntarily terminated following the

11 initiation of proceedings under section 2(b) of chapter XIIA of

12 1939 PA 288, MCL 712A.2, or a similar law of another state. IN

13 PROCEEDINGS UNDER THE PROBATE CODE OF 1939.

14 (2) In a petition submitted as required by subsection (1),

15 if a parent is a suspected perpetrator or is suspected of placing

16 the child at an unreasonable risk of harm due to the parent's

17 failure to take reasonable steps to intervene to eliminate that

18 risk, the family independence agency shall include a request for

19 termination of parental rights at the initial dispositional hear-

20 ing as authorized under section 19b of chapter XIIA of THE PRO-

21 BATE CODE OF 1939, 1939 PA 288, MCL 712A.19b.

22 (3) If the department is considering petitioning for termi-

23 nation of parental rights at the initial dispositional hearing as

24 authorized under section 19b of chapter XIIA of THE PROBATE CODE

25 OF 1939, 1939 PA 288, MCL 712A.19b, even though the facts of the

26 child's case do not require departmental action under subsection

27 (1), the department shall hold a conference among the appropriate

1 agency personnel to agree upon the course of action. The  
2 department shall notify the attorney representing the child of  
3 the time and place of the conference, and the attorney may  
4 attend. If an agreement is not reached at this conference, the  
5 department director or the director's designee shall resolve the  
6 disagreement after consulting the attorneys representing both the  
7 department and the child.