

**SENATE BILL NO. 315**

February 16, 1999, Introduced by Senator VAN REGENMORTER and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 136b (MCL 750.136b), as added by 1988 PA 251.

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

1       Sec. 136b. (1) As used in this section:

2       (a) "Child" means a person who is less than 18 years of age  
3 and is not emancipated by operation of law as provided in section  
4 ~~4(1) of Act No. 293 of the Public Acts of 1968, being section~~  
5 ~~722.4 of the Michigan Compiled Laws~~ 4 OF 1968 PA 293, MCL  
6 722.4.

7       (b) "Omission" means a willful failure to provide the food,  
8 clothing, or shelter necessary for a child's welfare or the  
9 willful abandonment of a child.

1 (c) "Person" means a child's parent or guardian or any other  
2 person who cares for, has custody of, or has authority over a  
3 child regardless of the length of time that a child is cared for,  
4 in the custody of, or subject to the authority of that person.

5 (d) "Physical harm" means any injury to a child's physical  
6 condition.

7 (e) "Serious physical harm" means an injury of a child's  
8 physical condition or welfare that is not necessarily permanent  
9 but constitutes substantial bodily disfigurement, or seriously  
10 impairs the function of a body organ or limb, OR IS A FRACTURE OF  
11 A RIB, THE SKULL, OR THE SPINE.

12 (f) "Serious mental harm" means an injury to a child's  
13 mental condition or welfare that is not necessarily permanent but  
14 results in visibly demonstrable manifestations of a substantial  
15 disorder of thought or mood which significantly impairs judgment,  
16 behavior, capacity to recognize reality, or ability to cope with  
17 the ordinary demands of life.

18 (2) A person is guilty of child abuse in the first degree if  
19 the person knowingly or intentionally causes serious physical or  
20 serious mental harm to a child. Child abuse in the first degree  
21 is a felony punishable by imprisonment for not more than 15  
22 years.

23 (3) A person is guilty of child abuse in the second degree  
24 if the person's omission causes serious physical harm or serious  
25 mental harm to a child or if the person's reckless act causes  
26 serious physical harm to a child. Child abuse in the second

1 degree is a felony punishable by imprisonment for not more than 4  
2 years.

3 (4) A person is guilty of child abuse in the third degree if  
4 the person knowingly or intentionally causes physical harm to a  
5 child. Child abuse in the third degree is a misdemeanor punish-  
6 able by imprisonment for not more than 2 years.

7 (5) A person is guilty of child abuse in the fourth degree  
8 if the person's omission or reckless act causes physical harm to  
9 a child. Child abuse in the fourth degree is a misdemeanor pun-  
10 ishable by imprisonment for not more than 1 year.

11 (6) This section ~~shall~~ DOES not ~~be construed to~~ prohibit  
12 a parent or guardian, or other person permitted by law or autho-  
13 rized by the parent or guardian, from taking steps to reasonably  
14 discipline a child, including the use of reasonable force.