

SENATE BILL No. 1187

March 29, 2000, Introduced by Senators HAMMERSTROM and JOHNSON and referred to the Committee on Judiciary.

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending section 8 (MCL 722.628), as amended by 2000 PA 45.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8. (1) Within 24 hours after receiving a report made
2 under this act, the department shall refer the report to the
3 prosecuting attorney if the report meets the requirements of
4 section 3(6) or shall commence an investigation of the child sus-
5 pected of being abused or neglected. Within 24 hours after
6 receiving a report whether from the reporting person or from the
7 department under section 3(6), the local law enforcement agency
8 shall refer the report to the department if the report meets the
9 requirements of section 3(7) or shall commence an investigation
10 of the child suspected of being abused or neglected. If the
11 child suspected of being abused is not in the physical custody of

1 the parent or legal guardian and informing the parent or legal
2 guardian would not endanger the child's health or welfare, the
3 agency or the department shall inform the child's parent or legal
4 guardian of the investigation as soon as the agency or the
5 department discovers the identity of the child's parent or legal
6 guardian.

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

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

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

23 (b) The child is the victim of suspected sexual abuse or
24 sexual exploitation.

25 (c) Abuse or neglect resulting in severe physical injury to
26 the child requires medical treatment or hospitalization. For
27 purposes of this subdivision and section 17, "severe physical

1 injury" means brain damage, skull or bone fracture, subdural
2 hemorrhage or hematoma, dislocation, sprains, internal injuries,
3 poisoning, burns, scalds, severe cuts, or any other physical
4 injury that seriously impairs the health or physical well-being
5 of a child.

6 (d) Law enforcement intervention is necessary for the pro-
7 tection of the child, a department employee, or another person
8 involved in the investigation.

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

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

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

22 (6) In each county, the prosecuting attorney and the depart-
23 ment shall develop and establish procedures for involving law
24 enforcement officials as provided in this section. In each
25 county, the prosecuting attorney and the department shall adopt
26 and implement a standard child abuse and neglect investigation
27 and interview protocol using as a model the protocol developed by

1 the governor's task force on children's justice as published in
2 DSS Publication 794 (8-93).

3 (7) If there is reasonable cause to suspect that a child in
4 the care of or under the control of a public or private agency,
5 institution, or facility is an abused or neglected child, the
6 agency, institution, or facility shall be investigated by an
7 agency administratively independent of the agency, institution,
8 or facility being investigated. If the investigation produces
9 evidence of a violation of section 145c or sections 520b to 520g
10 of the Michigan penal code, 1931 PA 328, MCL 750.145c and
11 750.520b to 750.520g, the investigating agency shall transmit a
12 copy of the results of the investigation to the prosecuting
13 attorney of the county in which the agency, institution, or
14 facility is located.

15 (8) A school or other institution shall cooperate with the
16 department during an investigation of a report of child abuse or
17 neglect. Cooperation includes allowing access to the child with-
18 out parental consent if access is determined by the department to
19 be necessary to complete the investigation or to prevent abuse or
20 neglect of the child. However, the department shall notify the
21 person responsible for the child's health or welfare about the
22 department's contact with the child at the time or as soon after-
23 ward as the person can be reached. The department may delay the
24 notice if the notice would compromise the safety of the child or
25 child's siblings or the integrity of the investigation, but only
26 for the time 1 of those conditions exists.

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

3 (a) Before contact with the child, the department investiga-
4 tor shall review with the designated school staff person the
5 department's responsibilities under this act and the investiga-
6 tion procedure.

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

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

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

25 (11) The department shall enter each report made under this
26 act that is the subject of a field investigation into the CPSI
27 system. The department shall maintain a report entered on the

1 CPSI system as required by this subsection until the child about
2 whom the investigation is made is 18 years old or until 10 years
3 after the investigation is commenced, whichever is later, or, if
4 the case is classified as a central registry case, until the
5 department receives reliable information that the perpetrator of
6 the abuse or neglect is dead. Unless made public as specified
7 information released under section 7d, a report that is main-
8 tained on the CPSI system is confidential and is not subject to
9 the disclosure requirements of the freedom of information act,
10 1976 PA 442, MCL 15.231 to 15.246.

11 (12) After completing a field investigation and based on its
12 results, the department shall determine in which single category,
13 prescribed by section 8d, to classify the allegation of child
14 abuse or neglect.

15 (13) Except as provided in subsection (14), upon completion
16 of the investigation by the local law enforcement agency or the
17 department, the law enforcement agency or department may inform
18 the person who made the report as to the disposition of the
19 report.

20 (14) If the person who made the report is mandated to report
21 under section 3, upon completion of the investigation by the
22 department, the department shall inform the person in writing as
23 to the disposition of the case and shall include in the informa-
24 tion at least all of the following:

25 (a) What determination the department made under subsection
26 (12) and the rationale for that decision.

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

3 (c) Notification that the information being conveyed is
4 confidential.

5 (15) Information sent under subsection (14) shall not
6 include personally identifying information for a person named in
7 a report or record made under this act.

8 (16) IN CONDUCTING AN INVESTIGATION UNDER THIS SECTION, THE
9 DEPARTMENT, A PROSECUTING ATTORNEY, OR A LOCAL LAW ENFORCEMENT
10 AGENCY SHALL NOT ATTEMPT TO DETERMINE THE IDENTITY OF THE MOTHER
11 OF A NEWBORN WHO IS LEFT WITH AN EMERGENCY SERVICE PROVIDER UNDER
12 SECTION 19D OF CHAPTER XIIIA OF THE PROBATE CODE OF 1939, 1939 PA
13 288, MCL 712A.19B, IF THE INDIVIDUAL WHO LEAVES THE NEWBORN WITH
14 THE EMERGENCY SERVICE PROVIDER DID SO IN COMPLIANCE WITH THE ELE-
15 MENTS FOR AN AFFIRMATIVE DEFENSE THAT ARE SET FORTH IN SECTION
16 135 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.135.

17 Enacting section 1. This amendatory act does not take
18 effect unless all of the following bills of the 90th Legislature
19 are enacted into law:

20 (a) Senate Bill No. 1052.

21 (b) Senate Bill No. 1053.