

SUBSTITUTE FOR
HOUSE BILL NO. 5087

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Attorney" means, if appointed to represent a child
3 under the provisions referenced in section 10, an attorney serv-
4 ing as the child's legal advocate in the manner defined and
5 described in section 13a of chapter XIIIA of the probate code of
6 1939, 1939 PA 288, MCL 712A.13a.

7 (b) "Central registry" means the system maintained at the
8 department that is used to keep a record of all reports filed
9 with the department ~~pursuant to~~ UNDER this act in which

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1 relevant and accurate evidence of child abuse or neglect is found
2 to exist.

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

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

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

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

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

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

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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,
6 MCL 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) "MANDATED REPORTER" MEANS AN INDIVIDUAL LISTED IN SEC-
23 TION 3 WHO, IF THE INDIVIDUAL HAS REASONABLE CAUSE TO SUSPECT
24 CHILD ABUSE OR NEGLECT, IS REQUIRED TO REPORT IN THE MANNER PRE-
25 SCRIBED IN SECTION 3.

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1 (P) ~~-(O)-~~ "Nonparent adult" means a person who is 18 years
2 of age or older and who, regardless of the person's domicile,
3 meets all of the following criteria in relation to a child:

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

5 (ii) Has a close personal relationship with the child's
6 parent or with a person responsible for the child's health or
7 welfare.

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

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

16 (i) A licensed or unlicensed child care organization as
17 defined in section 1 of 1973 PA 116, MCL 722.111.

18 (ii) A licensed or unlicensed adult foster care family home
19 or adult foster care small group home as defined in section 3 of
20 the adult foster care facility licensing act, 1979 PA 218,
21 MCL 400.703.

22 (R) "PSYCHOTROPIC DRUG" MEANS A MEDICATION ADMINISTERED FOR
23 THE PRIMARY PURPOSE OF TREATING OR AMELIORATING A DISORDER OF
24 THOUGHT, MOOD, OR BEHAVIOR.

25 (S) ~~-(Q)-~~ "Relevant evidence" means evidence having a ten-
26 dency to make the existence of a fact that is at issue more
27 probable than it would be without the evidence.

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1 (T) ~~—(r)—~~ "Sexual abuse" means engaging in sexual contact or
2 sexual penetration as those terms are defined in section 520a of
3 the Michigan penal code, 1931 PA 328, MCL 750.520a, with a
4 child.

5 (U) ~~—(s)—~~ "Sexual exploitation" includes allowing, permit-
6 ting, or encouraging a child to engage in prostitution, or allow-
7 ing, permitting, encouraging, or engaging in the photographing,
8 filming, or depicting of a child engaged in a listed sexual act
9 as defined in section 145c of the Michigan penal code, 1931 PA
10 328, MCL 750.145c.

11 (V) ~~—(t)—~~ "Specified information" means information in a
12 central registry case record that relates specifically to refer-
13 rals or reports of child abuse or neglect. Specified information
14 does not include any of the following:

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

23 (ii) Information in a law enforcement report as provided in
24 section 7(8).

25 (iii) Any other information that is specifically designated
26 as confidential under other law.

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1 (W) ~~(u)~~ "Structured decision-making tool" means the
2 department document labeled "DSS-4752 (P3) (3-95)" or a revision
3 of that document that better measures the risk of future harm to
4 a child.

5 (X) ~~(v)~~ "Substantiated" means a child protective services
6 case classified as a central registry case.

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

10 Sec. 3. (1) A physician, coroner, dentist, registered
11 dental hygienist, medical examiner, nurse, ~~a~~ person licensed to
12 provide emergency medical care, audiologist, psychologist, mar-
13 riage and family therapist, licensed professional counselor, cer-
14 tified social worker, social worker, social work technician,
15 school administrator, school counselor or teacher, law enforce-
16 ment officer, or regulated child care provider who has reasonable
17 cause to suspect child abuse or neglect shall make immediately,
18 by telephone or otherwise, an oral report, or cause an oral
19 report to be made, of the suspected child abuse or neglect to the
20 department. Within 72 hours after making the oral report, the
21 reporting person shall file a written report as required in this
22 act. If the reporting person is a member of the staff of a hos-
23 pital, agency, or school, the reporting person shall notify the
24 person in charge of the hospital, agency, or school of his or her
25 finding and that the report has been made, and shall make a copy
26 of the written report available to the person in charge. One
27 report from a hospital, agency, or school shall be considered

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1 adequate to meet the reporting requirement. A member of the
2 staff of a hospital, agency, or school shall not be dismissed or
3 otherwise penalized for making a report required by this act or
4 for cooperating in an investigation.

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

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

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

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

25 (6) If the report or subsequent investigation indicates a
26 violation of sections 136b and 145c or sections 520b to 520g of
27 the Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~

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1 ~~being sections 750.136b, 750.145c and 750.520b to 750.520g of the~~
2 ~~Michigan Compiled Laws~~ 1931 PA 328, MCL 750.136B, 750.145C, AND
3 750.520B TO 750.520G, or if the report or subsequent investiga-
4 tion indicates that the suspected abuse was not committed by a
5 person responsible for the child's health or welfare, and the
6 department believes that the report has basis in fact, the
7 department shall transmit a copy of the written report and the
8 results of any investigation to the prosecuting attorney of the
9 counties in which the child resides and is found.

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

24 (8) For purposes of this act, the pregnancy of a child less
25 than 12 years of age or the presence of a venereal disease in a
26 child who is over 1 month of age but less than 12 years of age

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1 shall be reasonable cause to suspect child abuse and neglect have
2 occurred.

3 (9) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, FOR THE
4 PURPOSES OF THIS ACT, A PARENT'S OR LEGAL GUARDIAN'S REFUSAL TO
5 ADMINISTER OR CONSENT TO THE ADMINISTRATION OF A PSYCHOTROPIC
6 DRUG TO HIS OR HER CHILD IS NOT IN AND OF ITSELF REASONABLE CAUSE
7 TO SUSPECT CHILD ABUSE OR CHILD NEGLECT HAS OCCURRED. IF BECAUSE
8 OF A PARENT'S OR LEGAL GUARDIAN'S REFUSAL A CHILD IS NOT MEDI-
9 CATED WITH A PSYCHOTROPIC DRUG AND A PHYSICIAN REASONABLY
10 BELIEVES THAT WITHOUT THE MEDICATION THE CHILD PRESENTS A SUB-
11 STANTIAL RISK OF PHYSICAL HARM TO HIMSELF, HERSELF, OR ANOTHER
12 PERSON, THE PHYSICIAN SHALL REPORT TO THE DEPARTMENT AS REQUIRED
13 BY THIS SECTION.