

# HOUSE BILL No. 5997

(As passed the Senate, December 12, 2002)

May 2, 2002, Introduced by Reps. Vander Veen, Patterson, Richardville, Kuipers, Birkholz, Hummel, Jelinek, Pappageorge, Van Woerkom, Vear, Palmer, Meyer, Tabor and George and referred to the Committee on Family and Children Services.

A bill to amend 1975 PA 238, entitled  
"Child protection law,"  
by amending section 8 (MCL 722.628), as amended by 2000 PA 234.

**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

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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 protocols 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 standard child abuse and neglect investigation and  
27 interview protocols using as a model the protocols developed by

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1 the governor's task force on children's justice as published in  
2 FIA Publication 794 (revised 8-98) and FIA Publication 779  
3 (8-98), or an updated version of those publications.

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

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

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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

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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.

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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) Unless section 5 of chapter XII of the probate code of  
9 1939, 1939 PA 288, MCL 712.5, requires a physician to report to  
10 the department, the surrender of a newborn in compliance with  
11 chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1  
12 to 712.20, is not reasonable cause to suspect child abuse or  
13 neglect and, therefore, is not subject to the section 3 reporting  
14 requirement. This subsection does not apply to circumstances  
15 that arise on or after the date that chapter XII of the probate  
16 code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is repealed.  
17 THIS SUBSECTION APPLIES TO A NEWBORN WHOSE BIRTH IS DESCRIBED IN  
18 THE BORN ALIVE INFANT PROTECTION ACT AND WHO IS CONSIDERED TO BE  
19 A NEWBORN SURRENDERED UNDER THE SAFE DELIVERY OF NEWBORNS LAW AS  
20 PROVIDED IN SECTION 3 OF CHAPTER XII OF THE PROBATE CODE OF 1939,  
21 1939 PA 288, MCL 712.3.

22 Enacting section 1. This amendatory act shall not take  
23 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. 5994  
24 (request no. 06805'02 \*) of the 91st Legislature is enacted into  
25 law.