

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4420

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending sections 8 and 17 (MCL 722.628 and 722.637), as amended
by 2006 PA 256.

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 (9) or shall commence an investigation of the child
5 suspected 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) or (9), the local law enforcement
8 agency shall refer the report to the department if the report meets

1 the requirements of section 3(7) or shall commence an investigation
2 of the child suspected of being abused or neglected or exposed to
3 or who has had contact with methamphetamine production. If the
4 child suspected of being abused or exposed to or who has had
5 contact with methamphetamine production is not in the physical
6 custody of the parent or legal guardian and informing the parent or
7 legal guardian would not endanger the child's health or welfare,
8 the agency or the department shall inform the child's parent or
9 legal guardian of the investigation as soon as the agency or the
10 department discovers the identity of the child's parent or legal
11 guardian.

12 (2) In the course of its investigation, the department shall
13 determine if the child is abused or neglected. The department shall
14 cooperate with law enforcement officials, courts of competent
15 jurisdiction, and appropriate state agencies providing human
16 services in relation to preventing, identifying, and treating child
17 abuse and neglect; shall provide, enlist, and coordinate the
18 necessary services, directly or through the purchase of services
19 from other agencies and professions; and shall take necessary
20 action to prevent further abuses, to safeguard and enhance the
21 child's welfare, and to preserve family life where possible. In the
22 course of an investigation, at the time that a department
23 investigator contacts an individual about whom a report has been
24 made under this act or contacts an individual responsible for the
25 health or welfare of a child about whom a report has been made
26 under this act, the department investigator shall advise that
27 individual of the department investigator's name, whom the

1 department investigator represents, and the specific complaints or
2 allegations made against the individual. The department shall
3 ensure that its policies, procedures, and administrative rules
4 ensure compliance with the provisions of this act.

5 (3) In conducting its investigation, the department shall seek
6 the assistance of and cooperate with law enforcement officials
7 within 24 hours after becoming aware that 1 or more of the
8 following conditions exist:

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

11 (b) The child is the victim of suspected sexual abuse or
12 sexual exploitation.

13 (c) Abuse or neglect resulting in severe physical injury to
14 the child. ~~requires medical treatment or hospitalization.~~ For
15 purposes of this subdivision and section 17, "severe physical
16 injury" means ~~brain damage, skull or bone fracture, subdural~~
17 ~~hemorrhage or hematoma, dislocation, sprains, internal injuries,~~
18 ~~poisoning, burns, scalds, severe cuts, or any other physical~~ **AN**
19 **injury TO THE CHILD THAT REQUIRES MEDICAL TREATMENT OR**
20 **HOSPITALIZATION AND** that seriously impairs the **CHILD'S** health or
21 physical well-being. ~~of a child.~~

22 (d) Law enforcement intervention is necessary for the
23 protection of the child, a department employee, or another person
24 involved in the investigation.

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

27 (f) The child has been exposed to or had contact with

1 methamphetamine production.

2 (4) Law enforcement officials shall cooperate with the
3 department in conducting investigations under subsections (1) and
4 (3) and shall comply with sections 5 and 7. The department and law
5 enforcement officials shall conduct investigations in compliance
6 with the protocols adopted and implemented as required by
7 subsection (6).

8 (5) Involvement of law enforcement officials under this
9 section does not relieve or prevent the department from proceeding
10 with its investigation or treatment if there is reasonable cause to
11 suspect that the child abuse or neglect was committed by a person
12 responsible for the child's health or welfare.

13 (6) In each county, the prosecuting attorney and the
14 department shall develop and establish procedures for involving law
15 enforcement officials as provided in this section. In each county,
16 the prosecuting attorney and the department shall adopt and
17 implement standard child abuse and neglect investigation and
18 interview protocols using as a model the protocols developed by the
19 governor's task force on children's justice as published in FIA
20 Publication 794 (revised 8-98) and FIA Publication 779 (8-98), or
21 an updated version of those publications.

22 (7) If there is reasonable cause to suspect that a child in
23 the care of or under the control of a public or private agency,
24 institution, or facility is an abused or neglected child, the
25 agency, institution, or facility shall be investigated by an agency
26 administratively independent of the agency, institution, or
27 facility being investigated. If the investigation produces evidence

1 of a violation of section 145c or sections 520b to 520g of the
2 Michigan penal code, 1931 PA 328, MCL 750.145c and 750.520b to
3 750.520g, the investigating agency shall transmit a copy of the
4 results of the investigation to the prosecuting attorney of the
5 county in which the agency, institution, or facility is located.

6 (8) A school or other institution shall cooperate with the
7 department during an investigation of a report of child abuse or
8 neglect. Cooperation includes allowing access to the child without
9 parental consent if access is determined by the department to be
10 necessary to complete the investigation or to prevent abuse or
11 neglect of the child. However, the department shall notify the
12 person responsible for the child's health or welfare about the
13 department's contact with the child at the time or as soon
14 afterward as the person can be reached. The department may delay
15 the notice if the notice would compromise the safety of the child
16 or child's siblings or the integrity of the investigation, but only
17 for the time 1 of those conditions exists.

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

20 (a) Before contact with the child, the department investigator
21 shall review with the designated school staff person the
22 department's responsibilities under this act and the investigation
23 procedure.

24 (b) After contact with the child, the department investigator
25 shall meet with the designated school staff person and the child
26 about the response the department will take as a result of contact
27 with the child. The department may also meet with the designated

1 school staff person without the child present and share additional
2 information the investigator determines may be shared subject to
3 the confidentiality provisions of this act.

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

7 (10) A child shall not be subjected to a search at a school
8 that requires the child to remove his or her clothing to expose his
9 buttocks or genitalia or her breasts, buttocks, or genitalia unless
10 the department has obtained an order from a court of competent
11 jurisdiction permitting such a search. If the access occurs within
12 a hospital, the investigation shall be conducted so as not to
13 interfere with the medical treatment of the child or other
14 patients.

15 (11) The department shall enter each report made under this
16 act that is the subject of a field investigation into the CPSI
17 system. The department shall maintain a report entered on the CPSI
18 system as required by this subsection until the child about whom
19 the investigation is made is 18 years old or until 10 years after
20 the investigation is commenced, whichever is later, or, if the case
21 is classified as a central registry case, until the department
22 receives reliable information that the perpetrator of the abuse or
23 neglect is dead. Unless made public as specified information
24 released under section 7d, a report that is maintained on the CPSI
25 system is confidential and is not subject to the disclosure
26 requirements of the freedom of information act, 1976 PA 442, MCL
27 15.231 to 15.246.

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

5 (13) Except as provided in subsection (14), upon completion of
6 the investigation by the local law enforcement agency or the
7 department, the law enforcement agency or department may inform the
8 person who made the report as to the disposition of the report.

9 (14) If the person who made the report is mandated to report
10 under section 3, upon completion of the investigation by the
11 department, the department shall inform the person in writing as to
12 the disposition of the case and shall include in the information at
13 least all of the following:

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

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

18 (c) Notification that the information being conveyed is
19 confidential.

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

23 (16) Unless section 5 of chapter XII of the probate code of
24 1939, 1939 PA 288, MCL 712.5, requires a physician to report to the
25 department, the surrender of a newborn in compliance with chapter
26 XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20,
27 is not reasonable cause to suspect child abuse or neglect and is

1 not subject to the section 3 reporting requirement. This subsection
2 does not apply to circumstances that arise on or after the date
3 that chapter XII of the probate code of 1939, 1939 PA 288, MCL
4 712.1 to 712.20, is repealed. This subsection applies to a newborn
5 whose birth is described in the born alive infant protection act
6 and who is considered to be a newborn surrendered under the safe
7 delivery of newborns law as provided in section 3 of chapter XII of
8 the probate code of 1939, 1939 PA 288, MCL 712.3.

9 (17) All department employees involved in investigating child
10 abuse or child neglect cases shall be trained in the legal duties
11 to protect the state and federal constitutional and statutory
12 rights of children and families from the initial contact of an
13 investigation through the time services are provided.

14 Sec. 17. (1) ~~Within~~ **EXCEPT AS PROVIDED IN SUBSECTION (2),**
15 **WITHIN** 24 hours after the department determines that a child was
16 severely physically injured as defined in section 8, sexually
17 abused, or allowed to be exposed to or have contact with
18 methamphetamine production, the department shall submit a petition
19 for authorization by the court under section 2(b) of chapter XIIA
20 of 1939 PA 288, MCL 712A.2.

21 (2) **THE DEPARTMENT IS NOT REQUIRED TO FILE A PETITION FOR**
22 **AUTHORIZATION BY THE COURT AS DESCRIBED IN SUBSECTION (1) IF THE**
23 **DEPARTMENT DETERMINES THAT THE PARENT OR LEGAL GUARDIAN IS NOT A**
24 **SUSPECTED PERPETRATOR OF THE ABUSE AND THE DEPARTMENT DETERMINES**
25 **THAT ALL OF THE FOLLOWING APPLY:**

26 (A) **THE PARENT OR LEGAL GUARDIAN DID NOT NEGLECT OR FAIL TO**
27 **PROTECT THE CHILD.**

1 (B) THE PARENT OR LEGAL GUARDIAN DOES NOT HAVE A HISTORICAL
2 RECORD THAT SHOWS A DOCUMENTED PATTERN OF NEGLECT OR FAILING TO
3 PROTECT THE CHILD.

4 (C) THE CHILD IS SAFE IN THE PARENT'S OR LEGAL GUARDIAN'S
5 CARE.