

HOUSE BILL No. 4420

March 1, 2005, Introduced by Reps. Sheen, Mortimer, Taub, Cheeks, Palmer, Garfield, Stahl, Pastor, Vander Veen, Hummel, Gosselin, Hoogendyk, Baxter, Gaffney and Shaffer 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 2004 PA 195.

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
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), 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 of

1 the child suspected of being abused or neglected. If the child
2 suspected of being abused is not in the physical custody of the
3 parent or legal guardian and informing the parent or legal guardian
4 would not endanger the child's health or welfare, the agency or the
5 department shall inform the child's parent or legal guardian of the
6 investigation as soon as the agency or the department discovers the
7 identity of the child's parent or legal guardian.

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

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

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

7 (b) The child is the victim of suspected sexual abuse or
8 sexual exploitation.

9 (c) Abuse or neglect resulting in severe physical injury to
10 the child requires medical treatment or hospitalization. For
11 purposes of this subdivision and section 17, "severe physical
12 injury" means brain damage, skull or bone fracture, subdural
13 hemorrhage or hematoma, dislocation, sprains, internal injuries,
14 poisoning, burns, scalds, severe cuts, or any other **SEVERE** physical
15 injury that ~~seriously impairs the health or physical well-being~~
16 **THREATENS THE LIFE** of a child.

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

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

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

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

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

15 (7) If there is reasonable cause to suspect that a child in
16 the care of or under the control of a public or private agency,
17 institution, or facility is an abused or neglected child, the
18 agency, institution, or facility shall be investigated by an agency
19 administratively independent of the agency, institution, or
20 facility being investigated. If the investigation produces evidence
21 of a violation of section 145c or sections 520b to 520g of the
22 Michigan penal code, 1931 PA 328, MCL 750.145c and 750.520b to
23 750.520g, the investigating agency shall transmit a copy of the
24 results of the investigation to the prosecuting attorney of the
25 county in which the agency, institution, or facility is located.

26 (8) A school or other institution shall cooperate with the
27 department during an investigation of a report of child abuse or

1 neglect. Cooperation includes allowing access to the child without
2 parental consent if access is determined by the department to be
3 necessary to complete the investigation or to prevent abuse or
4 neglect of the child. However, the department shall notify the
5 person responsible for the child's health or welfare about the
6 department's contact with the child at the time or as soon
7 afterward as the person can be reached. The department may delay
8 the notice if the notice would compromise the safety of the child
9 or child's siblings or the integrity of the investigation, but only
10 for the time 1 of those conditions exists.

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

13 (a) Before contact with the child, the department investigator
14 shall review with the designated school staff person the
15 department's responsibilities under this act and the investigation
16 procedure.

17 (b) After contact with the child, the department investigator
18 shall meet with the designated school staff person and the child
19 about the response the department will take as a result of contact
20 with the child. The department may also meet with the designated
21 school staff person without the child present and share additional
22 information the investigator determines may be shared subject to
23 the confidentiality provisions of this act.

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

27 (10) A child shall not be subjected to a search at a school

1 that requires the child to remove his or her clothing to expose his
2 buttocks or genitalia or her breasts, buttocks, or genitalia unless
3 the department has obtained an order from a court of competent
4 jurisdiction permitting such a search. If the access occurs within
5 a hospital, the investigation shall be conducted so as not to
6 interfere with the medical treatment of the child or other
7 patients.

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

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

25 (13) Except as provided in subsection (14), upon completion of
26 the investigation by the local law enforcement agency or the
27 department, the law enforcement agency or department may inform the

1 person who made the report as to the disposition of the report.

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

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

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

11 (c) Notification that the information being conveyed is
12 confidential.

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

16 (16) Unless section 5 of chapter XII of the probate code of
17 1939, 1939 PA 288, MCL 712.5, requires a physician to report to the
18 department, the surrender of a newborn in compliance with chapter
19 XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20,
20 is not reasonable cause to suspect child abuse or neglect and is
21 not subject to the section 3 reporting requirement. This subsection
22 does not apply to circumstances that arise on or after the date
23 that chapter XII of the probate code of 1939, 1939 PA 288, MCL
24 712.1 to 712.20, is repealed. This subsection applies to a newborn
25 whose birth is described in the born alive infant protection act
26 and who is considered to be a newborn surrendered under the safe
27 delivery of newborns law as provided in section 3 of chapter XII of

1 the probate code of 1939, 1939 PA 288, MCL 712.3.

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