

HOUSE BILL No. 4738

May 5, 2005, Introduced by Reps. Van Regenmorter, Baxter, Byrnes, Jones, Taub, Lipsey, Shaffer, Vander Veen, Gosselin, Palmer, Moore, Wenke, Sak and Steil and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 136b (MCL 750.136b), as amended by 1999 PA 273.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 136b. (1) As used in this section:

2 (a) "Child" means a person who is less than 18 years of age
3 and is not emancipated by operation of law as provided in section 4
4 of 1968 PA 293, MCL 722.4.

5 (b) "Cruel" means brutal, inhuman, sadistic, or that which
6 torments.

7 (c) "Omission" means a willful failure to provide the food,
8 clothing, or shelter necessary for a child's welfare or the willful
9 abandonment of a child.

1 (d) "Person" means a child's parent or guardian or any other
2 person who cares for, has custody of, or has authority over a child
3 regardless of the length of time that a child is cared for, in the
4 custody of, or subject to the authority of that person.

5 (e) "Physical harm" means any injury to a child's physical
6 condition.

7 (f) "Serious physical harm" means any physical injury to a
8 child that seriously impairs the child's health or physical well-
9 being, including, but not limited to, brain damage, a skull or bone
10 fracture, subdural hemorrhage or hematoma, dislocation, sprain,
11 internal injury, poisoning, burn or scald, or severe cut.

12 (g) "Serious mental harm" means an injury to a child's mental
13 condition or welfare that is not necessarily permanent but results
14 in visibly demonstrable manifestations of a substantial disorder of
15 thought or mood which significantly impairs judgment, behavior,
16 capacity to recognize reality, or ability to cope with the ordinary
17 demands of life.

18 (2) A person is guilty of child abuse in the first degree if
19 the person knowingly or intentionally causes serious physical or
20 serious mental harm to a child. Child abuse in the first degree is
21 a felony punishable by imprisonment for not more than 15 years.

22 (3) A person is guilty of child abuse in the second degree if
23 any of the following apply:

24 (a) The person's omission causes serious physical harm or
25 serious mental harm to a child or if the person's reckless act
26 causes serious physical harm **OR SERIOUS MENTAL HARM** to a child.

27 (b) The person knowingly or intentionally commits an act

1 likely to cause serious physical or mental harm to a child
2 regardless of whether harm results.

3 (c) The person knowingly or intentionally commits an act that
4 is cruel to a child regardless of whether harm results.

5 (D) THE PERSON KNOWINGLY OR INTENTIONALLY COMMITS 3 OR MORE
6 ACTS WITHIN A 24-MONTH PERIOD THAT CAUSE PHYSICAL HARM TO A CHILD.
7 FOR PURPOSES OF THIS SUBDIVISION, THE 3 OR MORE ACTS NEED NOT BE
8 COMMITTED AGAINST THE SAME CHILD.

9 (4) Child abuse in the second degree is a felony punishable by
10 imprisonment for not more than 4 years.

11 (5) A person is guilty of child abuse in the third degree if
12 ~~the~~ EITHER OF THE FOLLOWING APPLIES:

13 (A) THE person knowingly or intentionally causes physical harm
14 to a child.

15 (B) THE PERSON KNOWINGLY OR INTENTIONALLY COMMITS AN ACT
16 LIKELY TO CAUSE PHYSICAL HARM TO A CHILD, AND THE ACT RESULTS IN
17 PHYSICAL HARM TO A CHILD.

18 (6) Child abuse in the third degree is a ~~misdemeanor~~ FELONY
19 punishable by imprisonment for not more than 2 years.

20 (7) ~~(6)~~ A person is guilty of child abuse in the fourth
21 degree if ~~the~~ EITHER OF THE FOLLOWING APPLIES:

22 (A) THE person's omission or reckless act causes physical harm
23 to a child.

24 (B) THE PERSON KNOWINGLY OR INTENTIONALLY COMMITS AN ACT
25 LIKELY TO CAUSE PHYSICAL HARM TO A CHILD, REGARDLESS OF WHETHER
26 PHYSICAL HARM RESULTS.

27 (8) Child abuse in the fourth degree is a misdemeanor

1 punishable by imprisonment for not more than 1 year.

2 **(9)** ~~—(7)—~~ This section does not prohibit a parent or guardian,
3 or other person permitted by law or authorized by the parent or
4 guardian, from taking steps to reasonably discipline a child,
5 including the use of reasonable force.

6 Enacting section 1. This amendatory act takes effect 90 days
7 after the date it is enacted.