

HOUSE BILL No. 4820

April 21, 2009, Introduced by Rep. Byrnes and referred to the Committee on Judiciary.

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending section 18 (MCL 722.638), as amended by 1998 PA 428.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 18. (1) The department shall submit a petition for
2 authorization by the court under section 2(b) of chapter XIIIA of
3 1939 PA 288, MCL 712A.2, if 1 or more of the following apply:

4 (a) The department determines that a parent, guardian, or
5 custodian, or a person who is 18 years of age or older and who
6 resides for any length of time in the child's home, has abused the
7 child or a sibling of the child and the abuse included 1 or more of
8 the following:

9 (i) Abandonment of a young child.

1 (ii) Criminal sexual conduct involving penetration, attempted
2 penetration, or assault with intent to penetrate.

3 (iii) Battering, torture, or other severe physical abuse.

4 (iv) Loss or serious impairment of an organ or limb.

5 (v) Life threatening injury.

6 (vi) Murder or attempted murder.

7 (b) The department determines that there is risk of harm to
8 the child and either of the following is true:

9 (i) The parent's rights to another child were terminated as a
10 result of proceedings under section 2(b) of chapter XIIIA of 1939 PA
11 288, MCL 712A.2, or a similar law of another state.

12 (ii) The parent's rights to another child were voluntarily
13 terminated following the initiation of proceedings under section
14 2(b) of chapter XIIIA of 1939 PA 288, MCL 712A.2, or a similar law
15 of another state **—AND THE PROCEEDING INVOLVED ABUSE THAT INCLUDED**
16 **1 OR MORE OF THE FOLLOWING:**

17 (A) **ABANDONMENT OF A YOUNG CHILD.**

18 (B) **CRIMINAL SEXUAL CONDUCT INVOLVING PENETRATION, ATTEMPTED**
19 **PENETRATION, OR ASSAULT WITH INTENT TO PENETRATE.**

20 (C) **BATTERING, TORTURE, OR OTHER SEVERE PHYSICAL ABUSE.**

21 (D) **LOSS OR SERIOUS IMPAIRMENT OF AN ORGAN OR LIMB.**

22 (E) **LIFE-THREATENING INJURY.**

23 (F) **MURDER OR ATTEMPTED MURDER.**

24 (G) **VOLUNTARY MANSLAUGHTER.**

25 (H) **AIDING AND ABETTING, ATTEMPTING TO COMMIT, CONSPIRING TO**
26 **COMMIT, OR SOLICITING MURDER OR VOLUNTARY MANSLAUGHTER.**

27 (2) In a petition submitted as required by subsection (1), if

1 a parent is a suspected perpetrator or is suspected of placing the
2 child at an unreasonable risk of harm due to the parent's failure
3 to take reasonable steps to intervene to eliminate that risk, the
4 ~~family independence agency~~ **DEPARTMENT** shall include a request for
5 termination of parental rights at the initial dispositional hearing
6 as authorized under section 19b of chapter XIIIA of 1939 PA 288, MCL
7 712A.19b.

8 (3) If the department is considering petitioning for
9 termination of parental rights at the initial dispositional hearing
10 as authorized under section 19b of chapter XIIIA of 1939 PA 288, MCL
11 712A.19b, even though the facts of the child's case do not require
12 departmental action under subsection (1), the department shall hold
13 a conference among the appropriate agency personnel to agree upon
14 the course of action. The department shall notify the attorney
15 representing the child of the time and place of the conference, and
16 the attorney may attend. If an agreement is not reached at this
17 conference, the department director or the director's designee
18 shall resolve the disagreement after consulting the attorneys
19 representing both the department and the child.

20 Enacting section 1. This amendatory act takes effect 180 days
21 after the date it is enacted into law.

22 Enacting section 2. This amendatory act does not take effect
23 unless House Bill No. 4535 of the 95th Legislature is enacted into
24 law.