

HOUSE BILL No. 6132

May 5, 2010, Introduced by Rep. Moore and referred to the Committee on Regulatory Reform.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 411 (MCL 750.411), as amended by 2000 PA 339.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 411. (1) A person, firm, or corporation conducting a
2 hospital or pharmacy in this state, the person managing or in
3 charge of a hospital or pharmacy, or the person in charge of a ward
4 or part of a hospital to which 1 or more persons come or are
5 brought suffering from a wound or other injury inflicted by means
6 of a knife, gun, pistol, or other deadly weapon, or by other means
7 of violence, **OR BY FIREWORKS OR PYROTECHNICS**, has a duty to report
8 that fact immediately, both by telephone and in writing, to the
9 chief of police or other head of the police force of the village or
10 city in which the hospital or pharmacy is located, or to the county
11 sheriff if the hospital or pharmacy is located outside the

1 incorporated limits of a village or city. The report shall state
2 the name and residence of the person, if known, his or her
3 whereabouts, and the cause, character, and extent of the injuries
4 and may state the identification of the perpetrator, if known. **IF**
5 **THE WOUND OR INJURY WAS INFLICTED OR CAUSED BY FIREWORKS OR**
6 **PYROTECHNICS, A REPORT UNDER THIS SUBSECTION SHALL BE MADE TO THE**
7 **STATE FIRE MARSHAL IN THE MANNER AND ON A FORM AS PRESCRIBED BY THE**
8 **STATE FIRE MARSHAL.**

9 (2) A physician or surgeon who has under his or her charge or
10 care a person suffering from a wound or injury inflicted in the
11 manner described in subsection (1) has a duty to report that fact
12 in the same manner and to the same officer as required by
13 subsection (1).

14 (3) A person, firm, or corporation that violates this section
15 is guilty of a misdemeanor.

16 (4) To the extent not protected by the immunity conferred by
17 1964 PA 170, MCL 691.1401 to ~~691.1415~~ **691.1419**, a person who makes
18 a report in good faith under subsection (1) or (2) or who
19 cooperates in good faith in an investigation, civil proceeding, or
20 criminal proceeding conducted as a result of ~~such a~~ **THE** report is
21 immune from civil or criminal liability that would otherwise be
22 incurred by making the report or cooperating in the investigation
23 or civil or criminal proceeding. A person who makes a report under
24 subsection (1) or (2) or who cooperates in an investigation, civil
25 proceeding, or criminal proceeding conducted as a result of ~~such a~~
26 **THE** report is presumed to have acted in good faith. The presumption
27 created by this subsection may be rebutted only by clear and

1 convincing evidence.

2 (5) The immunity from civil and criminal liability granted
3 under subsection (4) extends only to the actions described in
4 subsection (4) and does not extend to another act or omission that
5 is negligent or that amounts to professional malpractice, or both,
6 and that causes personal injury or death.

7 (6) The physician-patient privilege created under section 2157
8 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.2157, a
9 health professional-patient privilege created under article 15 of
10 the public health code, 1978 PA 368, MCL 333.16101 to 333.18838,
11 and any other health professional-patient privilege created or
12 recognized by law do not apply to a report made under subsection
13 (1) or (2), are not valid reasons for a failure to comply with
14 subsection (1) or (2), and are not a defense to a misdemeanor
15 charge filed under this section.

16 Enacting section 1. This amendatory act does not take effect
17 unless Senate Bill No.____ or House Bill No. 6134(request no.
18 04032'09 *) of the 95th Legislature is enacted into law.