

SENATE BILL No. 86

February 1, 2017, Introduced by Senator JOHNSON and referred to the Committee on Judiciary.

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~~
2 **OPERATING** a hospital or pharmacy in this state, the person managing
3 or in charge of a hospital or pharmacy, or the person in charge of
4 a ward 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, has a duty to report that fact immediately, both by
8 telephone and in writing, to the chief of police or other head of
9 the police force of the village or city in which the hospital or

1 pharmacy is located, or to the county sheriff if the hospital or
2 pharmacy is located outside the incorporated limits of a village or
3 city. The report ~~shall~~**MUST** state the name and residence of the
4 person, if known, his or her whereabouts, and the cause, character,
5 and extent of the injuries and may state the identification of the
6 perpetrator, if known.

7 (2) A PERSON, FIRM, OR CORPORATION OPERATING A HOSPITAL OR
8 PHARMACY IN THIS STATE, THE PERSON MANAGING OR IN CHARGE OF A
9 HOSPITAL OR PHARMACY, OR THE PERSON IN CHARGE OF A WARD OR PART OF
10 A HOSPITAL TO WHICH 1 OR MORE PERSONS COME OR ARE BROUGHT SUFFERING
11 FROM A BURN INJURY HAS A DUTY TO REPORT THAT FACT IMMEDIATELY, BOTH
12 BY TELEPHONE AND IN WRITING, TO THE ARSON OR FIRE INVESTIGATION
13 UNIT OF THE VILLAGE OR CITY IN WHICH THE HOSPITAL OR PHARMACY IS
14 LOCATED, OR TO THE COUNTY SHERIFF IF THE HOSPITAL OR PHARMACY IS
15 LOCATED OUTSIDE THE INCORPORATED LIMITS OF A VILLAGE OR CITY, IF
16 EITHER OF THE FOLLOWING CIRCUMSTANCES IS PRESENT:

17 (A) THERE IS EVIDENCE THAT A FIRE ACCELERANT WAS USED IN THE
18 INCIDENT CAUSING THE BURN INJURY AND THERE IS A REASONABLE
19 SUSPICION THAT THE PERSON SUFFERING FROM THE BURN INJURY COMMITTED
20 ARSON.

21 (B) AN INTERVIEW WITH THE PERSON CREATES A REASONABLE
22 SUSPICION THAT HE OR SHE COMMITTED ARSON.

23 (3) THE REPORT MADE UNDER SUBSECTION (2) MUST STATE THE NAME
24 AND RESIDENCE OF THE PERSON SUFFERING FROM THE BURN INJURY, IF
25 KNOWN, HIS OR HER WHEREABOUTS, AND THE CAUSE, CHARACTER, AND EXTENT
26 OF THE INJURIES AND MAY STATE THE IDENTIFICATION OF THE
27 PERPETRATOR, IF KNOWN.

1 (4) ~~(2)~~—A physician or surgeon who has under his or her charge
2 or care a person suffering from a wound, ~~or~~ injury, **OR BURN**
3 inflicted in the manner described in subsection (1) **OR (2)** has a
4 duty to report that fact in the same manner and to the same ~~officer~~
5 **LAW ENFORCEMENT OFFICERS** as required by ~~subsection~~ **SUBSECTIONS** (1)
6 **AND (2)**.

7 (5) ~~(3)~~—A person, firm, or corporation that violates this
8 section is guilty of a misdemeanor.

9 (6) ~~(4)~~—To the extent not protected by the immunity conferred
10 by 1964 PA 170, MCL 691.1401 to ~~691.1415~~, **691.1419**, a person who
11 makes a report in good faith under ~~subsection (1) or (2)~~ **THIS**
12 **SECTION** or who cooperates in good faith in an investigation, civil
13 proceeding, or criminal proceeding conducted as a result of such a
14 report is immune from civil or criminal liability that would
15 otherwise be incurred by making the report or cooperating in the
16 investigation or civil or criminal proceeding. A person who makes a
17 report under ~~subsection (1) or (2)~~ **THIS SECTION** or who cooperates
18 in an investigation, civil proceeding, or criminal proceeding
19 conducted as a result of such a report is presumed to have acted in
20 good faith. The presumption created by this subsection may be
21 rebutted only by clear and convincing evidence.

22 (7) ~~(5)~~—The immunity from civil and criminal liability ~~granted~~
23 under subsection ~~(4)~~ **(6)** extends only to the actions described in
24 subsection ~~(4)~~ **(6)** and does not extend to another act or omission
25 that is negligent or that amounts to professional malpractice, or
26 both, and that causes personal injury or death.

27 (8) ~~(6)~~—The physician-patient privilege created under section

1 2157 of the revised judicature act of 1961, 1961 PA 236, MCL
2 600.2157, a health professional-patient privilege created under
3 article 15 of the public health code, 1978 PA 368, MCL 333.16101 to
4 333.18838, and any other health professional-patient privilege
5 created or recognized by law do not apply to a report made under
6 ~~subsection (1) or (2),~~ **THIS SECTION**, are not valid reasons for a
7 failure to comply with ~~subsection (1) or (2),~~ **THIS SECTION**, and are
8 not a defense to a misdemeanor charge filed under this section.

9 Enacting section 1. This amendatory act takes effect 90 days
10 after the date it is enacted into law.