

HOUSE BILL NO. 4707

June 11, 2019, Introduced by Reps. Liberati, Crawford, Hall, LaFave, Webber, Schroeder, Cynthia Johnson, Camilleri, LaGrand, Reilly and Allor and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending section 8 (MCL 722.628), as amended by 2016 PA 491.

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 and the local law enforcement agency if the
4 report meets the requirements of subsection (3)(a), (b), or (c) or



1 section 3(6) or (9) or shall commence an investigation of the child
2 suspected of being abused or neglected. Within 24 hours after
3 receiving a report whether from the reporting person or from the
4 department under subsection (3)(a), (b), or (c) or section 3(6) or
5 (9), the local law enforcement agency shall refer the report to the
6 department if the report meets the requirements of section 3(7) or
7 shall commence an investigation of the child suspected of being
8 abused or neglected or exposed to or who has had contact with
9 methamphetamine production. If the child suspected of being abused
10 or exposed to or who has had contact with methamphetamine
11 production is not in the physical custody of the parent or legal
12 guardian and informing the parent or legal guardian would not
13 endanger the child's health or welfare, the local law enforcement
14 agency or the department shall inform the child's parent or legal
15 guardian of the investigation as soon as the local law enforcement
16 agency or the department discovers the identity of the child's
17 parent or legal guardian.

18 (2) In the course of its investigation, the department shall
19 determine if the child is abused or neglected. The department shall
20 cooperate with law enforcement officials, courts of competent
21 jurisdiction, and appropriate state agencies providing human
22 services in relation to preventing, identifying, and treating child
23 abuse and child neglect; shall provide, enlist, and coordinate the
24 necessary services, directly or through the purchase of services
25 from other agencies and professions; and shall take necessary
26 action to prevent further abuses, to safeguard and enhance the
27 child's welfare, and to preserve family life where possible. In the
28 course of an investigation, at the time that a department
29 investigator contacts an individual about whom a report has been



1 made under this act or contacts an individual responsible for the
2 health or welfare of a child about whom a report has been made
3 under this act, the department investigator shall advise that
4 individual of the department investigator's name, whom the
5 department investigator represents, and the specific complaints or
6 allegations made against the individual. The department shall
7 ensure that its policies, procedures, and administrative rules
8 ensure compliance with the provisions of this act.

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

13 (a) Child abuse or child neglect is the suspected cause of a
14 child's death.

15 (b) The child is the victim of suspected sexual abuse or
16 sexual exploitation.

17 (c) Child abuse or child neglect resulting in severe physical
18 injury to the child. For purposes of this subdivision and section
19 17, "severe physical injury" means an injury to the child that
20 requires medical treatment or hospitalization and that seriously
21 impairs the child's health or physical well-being.

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

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

27 (f) The child has been exposed to or had contact with
28 methamphetamine production.

29 (4) Law enforcement officials shall cooperate with the



1 department in conducting investigations under subsections (1) and
2 (3) and shall comply with sections 5 and 7. The department and law
3 enforcement officials shall conduct investigations in compliance
4 with the protocols adopted and implemented as required by
5 subsection (6).

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

11 (6) In each county, the prosecuting attorney and the
12 department shall develop and establish procedures for involving law
13 enforcement officials and children's advocacy centers, as
14 appropriate, as provided in this section. In each county, the
15 prosecuting attorney and the department shall adopt and implement
16 standard child abuse and child neglect investigation and interview
17 protocols using as a model the protocols developed by the
18 governor's task force on children's justice as published in FIA
19 Publication 794 (revised 8-98) and FIA Publication 779 (8-98), or
20 an updated version of those publications. **Annually, in each county,**
21 **the department shall conduct a review to determine if the county**
22 **has adopted and implemented the standard child abuse and child**
23 **neglect investigation and interview protocols described in this**
24 **subsection. The department shall report its findings to the**
25 **legislature and to the governor's task force on child abuse and**
26 **neglect. In each county, the department shall annually review and**
27 **report until each county has adopted and implemented the protocols**
28 **described in this subsection. After that, in each county, the**
29 **department shall review and report as provided in this subsection 1**



1 **time every 5 years.**

2 (7) If there is reasonable cause to suspect that a child in
3 the care of or under the control of a public or private agency,
4 institution, or facility is an abused or neglected child, the
5 agency, institution, or facility shall be investigated by an agency
6 administratively independent of the agency, institution, or
7 facility being investigated. If the investigation produces evidence
8 of a violation of section 145c or sections 520b to 520g of the
9 Michigan penal code, 1931 PA 328, MCL 750.145c and 750.520b to
10 750.520g, the investigating agency shall transmit a copy of the
11 results of the investigation to the prosecuting attorney of the
12 county in which the agency, institution, or facility is located.

13 (8) A school or other institution shall cooperate with the
14 department during an investigation of a report of child abuse or
15 child neglect. Cooperation includes allowing access to the child
16 without parental consent if access is determined by the department
17 to be necessary to complete the investigation or to prevent child
18 abuse or child neglect of the child. The department shall notify
19 the person responsible for the child's health or welfare about the
20 department's contact with the child at the time or as soon
21 afterward as the person can be reached. The department may delay
22 the notice if the notice would compromise the safety of the child
23 or child's siblings or the integrity of the investigation, but only
24 for the time 1 of those conditions exists.

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

27 (a) Before contact with the child, the department investigator
28 shall review with the designated school staff person the
29 department's responsibilities under this act and the investigation



1 procedure.

2 (b) After contact with the child, the department investigator
3 shall meet with the designated school staff person and the child
4 about the response the department will take as a result of contact
5 with the child. The department may also meet with the designated
6 school staff person without the child present and share additional
7 information the investigator determines may be shared subject to
8 the confidentiality provisions of this act.

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

12 (10) A child shall not be subjected to a search at a school
13 that requires the child to remove his or her clothing to expose his
14 buttocks or genitalia or her breasts, buttocks, or genitalia unless
15 the department has obtained an order from a court of competent
16 jurisdiction permitting such a search. If the access occurs within
17 a hospital, the investigation shall be conducted so as not to
18 interfere with the medical treatment of the child or other
19 patients.

20 (11) The department shall enter each report made under this
21 act that is the subject of a field investigation into the CPSI
22 system. The department shall maintain a report entered on the CPSI
23 system as required by this subsection until the child about whom
24 the investigation is made is 18 years old or until 10 years after
25 the investigation is commenced, whichever is later, or, if the case
26 is classified as a central registry case, until the department
27 receives reliable information that the perpetrator of the child
28 abuse or child neglect is dead. Unless made public as specified
29 information released under section 7d, a report that is maintained



1 on the CPSI system is confidential and is not subject to the
2 disclosure requirements of the freedom of information act, 1976 PA
3 442, MCL 15.231 to 15.246.

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

8 (13) Except as provided in subsection (14), upon completion of
9 the investigation by the local law enforcement agency or the
10 department, the law enforcement agency or department may inform the
11 person who made the report as to the disposition of the report.

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

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

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

21 (c) Notification that the information being conveyed is
22 confidential.

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

26 (16) Unless section 5 of chapter XII of the probate code of
27 1939, 1939 PA 288, MCL 712.5, requires a physician to report to the
28 department, the surrender of a newborn in compliance with chapter
29 XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20,



1 is not reasonable cause to suspect child abuse or child neglect and
2 is not subject to the section 3 reporting requirement. This
3 subsection does not apply to circumstances that arise on or after
4 the date that chapter XII of the probate code of 1939, 1939 PA 288,
5 MCL 712.1 to 712.20, is repealed. This subsection applies to a
6 newborn whose birth is described in the born alive infant
7 protection act, 2002 PA 687, MCL 333.1071 to 333.1073, and who is
8 considered to be a newborn surrendered under the safe delivery of
9 newborns law as provided in section 3 of chapter XII of the probate
10 code of 1939, 1939 PA 288, MCL 712.3.

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

16 (18) The department shall determine whether there is an open
17 friend of the court case regarding a child who is suspected of
18 being abused or neglected if a child protective services
19 investigation of child abuse and child neglect allegations result
20 in any of the following dispositions:

21 (a) A finding that a preponderance of evidence indicates that
22 there has been child abuse or child neglect.

23 (b) Emergency removal of the child for child abuse or child
24 neglect before the investigation is completed.

25 (c) The family court takes jurisdiction on a petition and a
26 child is maintained in his or her own home under the supervision of
27 the department.

28 (d) If 1 or more children residing in the home are removed and
29 1 or more children remain in the home.



1 (e) Any other circumstances that the department determines are
2 applicable and related to child safety.

3 (19) If the department determines that there is an open friend
4 of the court case and the provisions of subsection (18) apply, the
5 department shall notify the office of the friend of the court in
6 the county in which the friend of the court case is open that there
7 is an investigation being conducted under this act regarding that
8 child and shall also report to the local friend of the court office
9 when there is a change in that child's placement.

10 (20) Child protective services may report to the local friend
11 of the court office any situation in which a parent, more than 3
12 times within 1 year or on 5 cumulative reports over several years,
13 made unfounded reports to child protective services regarding
14 alleged child abuse or child neglect of his or her child.

15 (21) If the department determines that there is an open friend
16 of the court case, the department shall provide noncustodial
17 parents of a child who is suspected of being abused or neglected
18 with the form developed by the department that has information on
19 how to change a custody or parenting time court order.

