

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5274

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~~**must** 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
5 section 3(6) or (9) or ~~shall~~**must** commence an investigation of the
6 child suspected of being abused or neglected. Within 24 hours after
7 receiving a report whether from the reporting person or from the
8 department under subsection (3)(a), (b), or (c) or section 3(6) or
9 (9), the local law enforcement agency ~~shall~~**must** refer the report

1 to the department if the report meets the requirements of section
2 3(7) or ~~shall~~**must** commence an investigation of the child suspected
3 of being abused or neglected or exposed to or who has had contact
4 with methamphetamine production. If the child suspected of being
5 abused or exposed to or who has had contact with methamphetamine
6 production is not in the physical custody of the parent or legal
7 guardian and informing the parent or legal guardian would not
8 endanger the child's health or welfare, the local law enforcement
9 agency or the department ~~shall~~**must** inform the child's parent or
10 legal guardian of the investigation as soon as the local law
11 enforcement agency or the department discovers the identity of the
12 child's parent or legal guardian.

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

1 complaints or allegations made against the individual. The
2 department ~~shall~~**must** ensure that its policies, procedures, and
3 administrative rules ensure compliance with ~~the provisions of this~~
4 act.

5 (3) In conducting its investigation, the department ~~shall~~**must**
6 seek the assistance of and cooperate with law enforcement officials
7 within 24 hours after becoming aware that 1 or more of the
8 following conditions exist:

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

11 (b) The child is the victim of suspected sexual abuse or
12 sexual exploitation.

13 (c) Child abuse or child neglect resulting in ~~severe physical~~
14 ~~injury~~**serious physical harm** to the child. ~~For purposes of this~~
15 ~~subdivision and section 17, "severe physical injury" means an~~
16 ~~injury to the child that requires medical treatment or~~
17 ~~hospitalization and that seriously impairs the child's health or~~
18 ~~physical well-being.~~

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

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

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

26 (4) Law enforcement officials ~~shall~~**must** cooperate with the
27 department in conducting investigations under subsections (1) and
28 (3) and ~~shall~~**must** comply with sections 5 and 7. The department and
29 law enforcement officials ~~shall~~**must** conduct investigations in

1 compliance with the protocols adopted and implemented as required
2 by subsection (6).

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

8 (6) In each county, the prosecuting attorney and the
9 department ~~shall~~**must** develop and establish procedures for
10 involving law enforcement officials and children's advocacy
11 centers, as appropriate, as provided in this section. In each
12 county, the prosecuting attorney and the department ~~shall~~**must**
13 adopt and implement standard child abuse and child neglect
14 investigation and interview protocols using as a model the
15 protocols developed by the governor's task force on children's
16 justice as published in FIA Publication 794 (revised 8-98) and FIA
17 Publication 779 (8-98), or an updated version of those
18 publications.

19 (7) If there is reasonable cause to suspect that a child in
20 the care of or under the control of a public or private agency,
21 institution, or facility is an abused or neglected child, the
22 agency, institution, or facility ~~shall~~**must** be investigated by an
23 agency administratively independent of the agency, institution, or
24 facility being investigated. If the investigation produces evidence
25 of a violation of section 145c or sections 520b to 520g of the
26 Michigan penal code, 1931 PA 328, MCL 750.145c and 750.520b to
27 750.520g, the investigating agency ~~shall~~**must** transmit a copy of
28 the results of the investigation to the prosecuting attorney of the
29 county in which the agency, institution, or facility is located.

1 (8) A school or other institution ~~shall~~**must** cooperate with
2 the department during an investigation of a report of child abuse
3 or child neglect. Cooperation includes allowing access to the child
4 without parental consent if access is determined by the department
5 to be necessary to complete the investigation or to prevent child
6 abuse or child neglect of the child. The department ~~shall~~**must**
7 notify the person responsible for the child's health or welfare
8 about the department's contact with the child at the time or as
9 soon afterward as the person can be reached. The department may
10 delay the notice if the notice would compromise the safety of the
11 child or child's siblings or the integrity of the investigation,
12 but only for the time 1 of those conditions exists.

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

15 (a) Before contact with the child, the department investigator
16 ~~shall~~**must** review with the designated school staff person the
17 department's responsibilities under this act and the investigation
18 procedure.

19 (b) After contact with the child, the department investigator
20 ~~shall~~**must** meet with the designated school staff person and the
21 child about the response the department will take as a result of
22 contact with the child. The department may also meet with the
23 designated school staff person without the child present and share
24 additional information the investigator determines may be shared
25 subject to the confidentiality provisions of this act.

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

29 (10) A child ~~shall~~**must** not be subjected to a search at a

1 school that requires the child to remove his or her clothing to
2 expose his buttocks or genitalia or her breasts, buttocks, or
3 genitalia unless the department has obtained an order from a court
4 of competent jurisdiction permitting ~~such a~~**that** search. If the
5 access occurs within a hospital, the investigation ~~shall~~**must** be
6 conducted so as not to interfere with the medical treatment of the
7 child or other patients.

8 (11) The department ~~shall~~**must** enter each report made under
9 this act that is the subject of a field investigation into the ~~CPSI~~
10 **electronic case management** system. The department ~~shall~~**must**
11 maintain a report entered on the ~~CPSI~~**electronic case management**
12 system as required by this subsection until the child about whom
13 the investigation is made is 18 years old or until 10 years after
14 the investigation is commenced, whichever is later, or, if the case
15 is classified as a central registry case, until the department
16 receives reliable information that the perpetrator of the child
17 abuse or child neglect is dead. Unless made public as specified
18 information released under section 7d, a report that is maintained
19 on the ~~CPSI~~**electronic case management** system is confidential and
20 is not subject to the disclosure requirements of the freedom of
21 information act, 1976 PA 442, MCL 15.231 to 15.246.

22 (12) After completing a field investigation and based on its
23 results, the department ~~shall~~**must** determine in which single
24 category, prescribed by section 8d, to classify the allegation of
25 child abuse or child neglect **and determine whether the child abuse**
26 **or child neglect must be classified as a central registry case.**

27 (13) **A person who is the subject of a report or record made**
28 **under this section in which the violation does not result in being**
29 **placed on the central registry, but is categorized as a category I,**

1 II, or III case under section 8d, may request the department amend
2 an inaccurate report or record from the local office file. Within
3 30 days after the classification of a confirmed case that does not
4 result in being placed on the central registry, the department must
5 notify in writing each person who is named in the report or record
6 as a perpetrator of confirmed serious abuse or neglect. This notice
7 requirement includes all the following:

8 (a) Must be sent by first-class mail to the identified
9 perpetrator.

10 (b) Must set forth the person's right to request amendment of
11 the record and the right to an administrative review conducted by
12 the department.

13 (c) Must state that the record may be released under section
14 7d, and may impact future employment or licensing opportunities.

15 (d) Must not identify the person reporting the suspected child
16 abuse or child neglect.

17 (14) The request described in subsection (13) must be made
18 within 180 days after the date of service of notice of a confirmed
19 serious abuse or neglect. The department may, for good cause,
20 extend the time frame for the request after the 180-day notice if
21 the department determines that the person who is the subject of the
22 report or record submitted the request for an administrative review
23 within 60 days after the 180-day notice period expired. The
24 department must create an administrative process to determine
25 whether the report or record should be amended.

26 (15) ~~(13)~~ Except as provided in subsection ~~(14)~~, (16), upon
27 completion of the investigation by the local law enforcement agency
28 or the department, the law enforcement agency or department may
29 inform the person who made the report as to the disposition of the

1 report.

2 (16) ~~(14)~~ If the person who made the report is mandated to
 3 report under section 3, upon completion of the investigation by the
 4 department, the department ~~shall~~**must** inform the person in writing
 5 as to the disposition of the case and ~~shall~~**must** include in the
 6 information at least all of the following:

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

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

11 (c) Notification that the information being conveyed is
 12 confidential.

13 (17) ~~(15)~~ Information sent under subsection ~~(14)~~ ~~shall~~ **(16)**
 14 **must** not include personally identifying information for a person
 15 named in a report or record made under this act.

16 (18) ~~(16)~~ Unless section 5 of chapter XII of the probate code
 17 of 1939, 1939 PA 288, MCL 712.5, requires a physician to report to
 18 the department, the surrender of a newborn in compliance with
 19 chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to
 20 712.20, is not reasonable cause to suspect child abuse or child
 21 neglect and is not subject to the section 3 reporting requirement.
 22 This subsection does not apply to circumstances that arise on or
 23 after the date that chapter XII of the probate code of 1939, 1939
 24 PA 288, MCL 712.1 to 712.20, is repealed. This subsection applies
 25 to a newborn whose birth is described in the born alive infant
 26 protection act, 2002 PA 687, MCL 333.1071 to 333.1073, and who is
 27 considered to be a newborn surrendered under the safe delivery of
 28 newborns law as provided in section 3 of chapter XII of the probate
 29 code of 1939, 1939 PA 288, MCL 712.3.

1 **(19)** ~~(17)~~ All department employees involved in investigating
 2 child abuse or child neglect cases ~~shall~~**must** be trained in the
 3 legal duties to protect the state and federal constitutional and
 4 statutory rights of children and families from the initial contact
 5 of an investigation through the time services are provided.

6 **(20)** ~~(18)~~ The department ~~shall~~**must** determine whether there is
 7 an open friend of the court case regarding a child who is suspected
 8 of being abused or neglected if a child protective services
 9 investigation of child abuse and child neglect allegations result
 10 in any of the following dispositions:

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

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

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

18 (d) If 1 or more children residing in the home are removed and
 19 1 or more children remain in the home.

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

22 **(21)** ~~(19)~~ If the department determines that there is an open
 23 friend of the court case and the provisions of subsection ~~(18)~~ **(20)**
 24 apply, the department ~~shall~~**must** notify the office of the friend of
 25 the court in the county in which the friend of the court case is
 26 open that there is an investigation being conducted under this act
 27 regarding that child and ~~shall~~**must** also report to the local friend
 28 of the court office when there is a change in that child's
 29 placement.

1 (22) ~~(20)~~ Child protective services may report to the local
2 friend of the court office any situation in which a parent, more
3 than 3 times within 1 year or on 5 cumulative reports over several
4 years, made unfounded reports to child protective services
5 regarding alleged child abuse or child neglect of his or her child.

6 (23) ~~(21)~~ If the department determines that there is an open
7 friend of the court case, the department ~~shall~~**must** provide a
8 noncustodial ~~parents~~**parent** of a child who is suspected of being
9 abused or neglected with the form developed by the department that
10 has information on how to change a custody or parenting time court
11 order.

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

14 Enacting section 2. This amendatory act does not take effect
15 unless all of the following bills of the 101st Legislature are
16 enacted into law:

17 (a) House Bill No. 5275.

18 (b) House Bill No. 5276.

19 (c) House Bill No. 5277.

20 (d) House Bill No. 5278.