



**House  
Legislative  
Analysis  
Section**

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**CHILD PROTECTION LAW: DEFINITIONS**

House Bill 5722 as passed by the House  
Second Analysis (7-9-90)

RECEIVED

Sponsor: Rep. Richard Bandstra  
Committee: Judiciary

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**THE APPARENT PROBLEM:**

The Child Protection Law requires medical professionals, school personnel, social workers and others to report suspected child abuse or neglect to the Department of Social Services (DSS). The law also figures in the state's eligibility to receive federal funds for child abuse and neglect programs. However, the federal Department of Health and Human Services has recently informed the DSS of deficiencies in the wording of the statute's definitions that would endanger a reported \$1.3 million in federal funding. Amendments to remedy those deficiencies have been proposed.

In a related matter, it appears that the law's definition of "child abuse" may be overbroad. Because the definition refers to harm committed or threatened by a "person," some have construed it to mean that even injuries inflicted by one child upon another must be reported. Obviously, the law was not meant to apply to schoolyard scuffles, and many are concerned about not only the inconvenience of inappropriate reporting, but also the consequences for children and families if improper records are maintained. It has been suggested that the definition be refined to exclude fights between young children of approximately the same age.

**THE CONTENT OF THE BILL:**

The bill would amend several definitions in the Child Protection Law, as follows:

- "child neglect" would be expanded to include threatened harm, as well as harm, and to include the action of "any person responsible for the child's health or welfare," rather than someone who "has custodial care of the child." The definition at present includes the failure to intervene when one knew of a risk to a child; the bill would also include the failure to intervene when one should have known of that risk.
- "person responsible for the child's health or welfare" at present includes "a person who cares for the child in a licensed or unlicensed day care center, group day care home, or family day care home." The bill would replace this language with a provision including "an owner, operator, volunteer, or employee" of a licensed or unlicensed child care organization or a licensed or unlicensed adult foster care family home or adult foster care small group home.
- "child abuse" would be redefined to mean harm or threatened harm that occurred through maltreatment or nonaccidental physical or mental injury to the health or welfare of a child by a person 15 years of age or older; by a person who is three years or more older than the child; through sexual abuse of any child; or through sexual exploitation of any child.

(Note: a "child" under the statute is any person under 18 years of age.)

MCL 722.622

**FISCAL IMPLICATIONS:**

Testimony before the House Judiciary Committee indicated that the bill would preserve approximately \$1.3 million in federal funding for child abuse and neglect programs. (6-5-90)

**ARGUMENTS:**

**For:**

The bill would make the relatively minor changes in the Child Protection Law necessary to preserve some \$1.3 million in federal funding. The protections afforded by the act would not be eroded in the process, for the bill's changes generally would broaden the application of the act, not narrow it. Although the definition of "child abuse" would be slightly narrowed, that action would merely exclude fights between young children of about the same age; harm done by older children and harm of a sexual nature would continue to be child abuse for the purposes of the law.

**Response:** The bill's definition of "child abuse," though an improvement over the existing definition, could still leave the law open to questionable interpretations and enforcement. For example, a strict reading of the language suggests that a fifteen-year-old who threatened a seventeen-year-old would be committing child abuse, as would a four-year-old who struck a one-year-old.

**POSITIONS:**

The Department of Social Services supports the bill. (7-9-90)

H.B. 5722 (7-9-90)