

## CHILD PROTECTION LAW: DEFINITIONS

House Bill 5722 as enrolled  
Third Analysis (10-10-90)

Sponsor: Rep. Richard Bandstra House Committee:  
Judiciary  
Senate Committee: Criminal Justice and Urban Affairs

### **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 revised to exclude fights between juveniles.

### **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 refer to harm or threatened harm that was committed by a parent, legal guardian, or any other person responsible for the child's health or welfare, or by a teacher or teacher's aide.

MCL 722.622

### **FISCAL IMPLICATIONS:**

According to the Office of Children and Youth Services, the bill would enable the state to receive and retain about \$412,000 in federal funding for child abuse and neglect programs for the 1989-90 fiscal year (10-9-90).

### **ARGUMENTS:**

#### **For:**

The bill would make the relatively minor changes in the Child Protection Law necessary to preserve over \$400,000 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 narrowed, that action would simply set forth a definition more consistent with the overall design of the statute. "Child abuse" would be something committed by an adult responsible for the child's welfare, not something committed by "a person," a phrasing that has led to interpretations that one child striking another must be reported as child abuse. Although some may argue that the definition should refer to any adult, such concerns are addressed by criminal laws against assault that apply to anyone, the bill would retain the act's overall focus on the reporting of abuse or neglect committed by someone responsible for a child.