

Act No. 122  
Public Acts of 1990  
Approved by the Governor  
June 25, 1990  
Filed with the Secretary of State  
June 26, 1990

**STATE OF MICHIGAN  
85TH LEGISLATURE  
REGULAR SESSION OF 1990**

Introduced by Reps. Webb, Runco, Bennett, Gire, Gubow and DeMars  
Rep. Rocca named co-sponsor

# **ENROLLED HOUSE BILL No. 5007**

AN ACT to amend sections 11, 11a, 11b, and 11f of Act No. 280 of the Public Acts of 1939, entitled as amended "An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates," sections 11 and 11f as added by Act No. 519 of the Public Acts of 1982, section 11a as amended by Act No. 208 of the Public Acts of 1987, and section 11b as amended by Act No. 422 of the Public Acts of 1988, being sections 400.11, 400.11a, 400.11b, and 400.11f of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 11, 11a, 11b, and 11f of Act No. 280 of the Public Acts of 1939, sections 11 and 11f as added by Act No. 519 of the Public Acts of 1982, section 11a as amended by Act No. 208 of the Public Acts of 1987, and section 11b as amended by Act No. 422 of the Public Acts of 1988, being sections 400.11, 400.11a, 400.11b, and 400.11f of the Michigan Compiled Laws, are amended to read as follows:

Sec. 11. As used in this section and sections 11a to 11f:

(a) "Abuse" means harm or threatened harm to an adult's health or welfare caused by another person. Abuse includes, but is not limited to, nonaccidental physical or mental injury, sexual abuse, or maltreatment.

(b) "Adult in need of protective services" or "adult" means a vulnerable person not less than 18 years of age who is suspected of being or believed to be abused, neglected, or exploited.

(c) "Exploitation" means an action that involves the misuse of an adult's funds, property, or personal dignity by another person.

(d) "Neglect" means harm to an adult's health or welfare caused by the inability of the adult to respond to a harmful situation or by the conduct of a person who assumes responsibility for a significant aspect of the adult's health or welfare. Neglect includes the failure to provide adequate food, clothing, shelter, or medical care. A person shall not be considered to be abused, neglected, or in need of emergency or protective services for the sole reason that the person is receiving or relying upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, and this act shall not require any medical care or treatment in contravention of the stated or implied objection of that person.

(e) "Protective services" includes, but is not limited to, remedial, social, legal, health, mental health, and referral services provided in response to a report of alleged harm or threatened harm because of abuse, neglect, or exploitation.

(f) "Vulnerable" means a condition in which an adult is unable to protect himself or herself from abuse, neglect, or exploitation because of a mental or physical impairment or because of advanced age.

Sec. 11a. (1) A person who is employed, licensed, registered, or certified to provide health care, educational, social welfare, mental health, or other human services; an employee of an agency licensed to provide health care, educational, social welfare, mental health, or other human services; a law enforcement officer; or an employee of the office of the county medical examiner who suspects or has reasonable cause to believe that an adult has been abused, neglected, or exploited shall make immediately, by telephone or otherwise, an oral report to the county department of social services of the county in which the abuse, neglect, or exploitation is suspected of having or believed to have occurred. After making the oral report, the reporting person may file a written report with the county department. A person described in this subsection who is also required to make a report pursuant to section 21771 of the public health code, Act No. 368 of the Public Acts of 1978, as amended, being section 333.21771 of the Michigan Compiled Laws and who makes that report is not required to make a duplicate report to the county department of social services under this section.

(2) A report made by a physician or other licensed health professional pursuant to subsection (1) shall not be considered a violation of any legally recognized privileged communication or a violation of article 15 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.16101 to 333.18838 of the Michigan Compiled Laws.

(3) In addition to those persons required to make an oral report under subsection (1), any person who suspects that an adult has been abused, neglected, or exploited may make a report to the county department of social services of the county in which the abuse, neglect, or exploitation is suspected of having occurred.

(4) A report made under this section shall contain the name of the adult and a description of the abuse, neglect, or exploitation. If possible, the report shall contain the adult's age and the names and addresses of the adult's guardian or next of kin, and of the persons with whom the adult resides, including their relationship to the adult. The report shall contain other information available to the reporting person that may establish the cause of the abuse, neglect, or exploitation and the manner in which the abuse, neglect, or exploitation occurred or is occurring. The county department shall reduce to writing the information provided in an oral report received pursuant to this section.

(5) The county department shall report to a police agency any criminal activity that it believes to be occurring, upon receipt of the oral report.

(6) This section shall not be construed as limiting the responsibilities of the police agency of a local unit of government to enforce the laws of this state or as precluding the police agency from reporting and investigating, as appropriate, alleged criminal conduct.

Sec. 11b. (1) Within 24 hours after receiving a report made or information obtained pursuant to section 11a, the county department of social services shall commence an investigation to determine whether the person suspected of being or believed to be abused, neglected, or exploited is an adult in need of protective services. A reasonable belief on the part of the county department that the person is an adult in need of protective services is a sufficient basis for investigation. If an investigation pertains to an adult residing in an adult foster care facility licensed by the Michigan department of social services, the county department shall provide the adult foster care licensee with the substance of the abuse or neglect allegations as soon as practicable after the beginning of the investigation. The licensee shall have the opportunity to respond to the allegations, and the response shall be included in the record.

(2) Upon a request by the county department, local law enforcement officers shall cooperate with the county department in an investigation of suspected abuse, neglect, or exploitation. However, the investigation required by this section shall not be in place of an investigation by the appropriate police agency regarding suspected criminal conduct arising from the suspected abuse, neglect, or exploitation.

(3) The investigation shall include a determination of the nature, extent, and cause of the abuse, neglect, or exploitation; examination of evidence; identification, if possible, of the person responsible for the abuse, neglect, or exploitation; the names and conditions of other adults in the place of residence; an evaluation of the persons responsible for the care of the adult, if appropriate; the environment of the residence; the relationship of the adult to the person responsible for the adult's care; an evaluation as to whether or not the adult would consent to receiving protective services; and any other pertinent data.

(4) The investigation shall include an interview with the adult. The county department shall conduct the interview by means of a personal visit with the adult in the adult's dwelling or in the office of the county department, by telephone conversation, or by any other means that may be available to the county department. In attempting to conduct a personal visit with the adult in the adult's dwelling, if admission to the dwelling is denied, the county department may seek to obtain a search warrant pursuant to Act No. 189 of the Public Acts of 1966, being sections 780.651 to 780.659 of the Michigan Compiled Laws.

(5) The investigation may include a medical, psychological, social, vocational, and educational evaluation and review.

(6) In the course of an investigation, the county department shall determine if the adult is or was abused, neglected, or exploited. The county department shall make available to the adult the appropriate and least restrictive protective services, directly or through the purchase of services from other agencies and professions, and shall take necessary action to safeguard and enhance the welfare of the adult, if possible. The county department also shall collaborate with law enforcement officers, courts of competent jurisdiction, and appropriate state and community agencies providing human services, which services are provided in relation to preventing, identifying, and treating adult abuse, neglect, or exploitation. If the abuse, neglect, or exploitation involves substance abuse, the county department shall collaborate with the local substance abuse coordinating agency as designated by the office of substance abuse services in the department of public health for a referral for substance abuse services. The county department may petition for a finding of incapacity and appointment of a guardian or temporary guardian pursuant to section 443 or 453 of the revised probate code, Act No. 642 of the Public Acts of 1978, as amended, being sections 700.443 and 700.453 of the Michigan Compiled Laws, and may petition for the appointment of a conservator pursuant to section 461 of Act No. 642 of the Public Acts of 1978, being section 700.461 of the Michigan Compiled Laws, for a vulnerable adult.

(7) Upon completion of an investigation, the county department shall prepare a written report of the investigation and its findings. A copy of this written report shall be forwarded to the state department upon the request of the state department.

(8) The county department may provide a copy of the written report to the prosecuting attorney for the county in which the adult suspected of being or believed to be abused, neglected, or exploited resides or is found.

Sec. 11f. (1) The state department shall not take any action pursuant to sections 11 to 11e in the case of a person who is residing in a state funded and operated facility or institution, including but not limited to a correctional institution, mental hospital, psychiatric hospital, psychiatric unit, or a developmental disability regional center.

(2) The state department shall not investigate suspected abuse, neglect, or any other suspected incident pursuant to sections 11 to 11e if the department of public health has investigative and enforcement responsibility for the incident pursuant to section 20201, 21771, or 21799a of the public health code, Act No. 368 of the Public Acts of 1978, as amended, being sections 333.20201, 333.21771, and 333.21799a of the Michigan Compiled Laws. The state department shall refer a report of suspected abuse or neglect in an institution governed by those sections to the department of public health.

(3) Sections 11 to 11e do not preclude the director from entering into interdepartmental agreements to carry out the duties and responsibilities of the state department under sections 11 to 11e in state funded and operated facilities or institutions, or to coordinate investigation in state licensed facilities under contract with a state agency in order to avoid duplication of effort among state agencies having statutory responsibility to investigate.

(4) The state department and the department of attorney general shall enter into an agreement establishing criteria to be used to determine those complaints involving a facility that receives funding under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396d, 1396f to 1396g, and 1396i to 1396s, or involving the delivery of a service funded under title XIX of the social security act, which complaints shall be referred immediately to the department of attorney general for possible investigation and prosecution.

This act is ordered to take immediate effect.

.....  
Clerk of the House of Representatives.

.....  
Secretary of the Senate.

Approved.....

#

.....  
Governor.