

HOUSE BILL No. 5007

July 27, 1989, Introduced by Reps. Webb, Runco, Bennett, Gire, Gubow and DeMars and referred to the Committee on Senior Citizens and Retirement.

A bill to amend sections 11, 11a, 11b, and 11f of Act No. 280 of the Public Acts of 1939, entitled as amended "The social welfare act," 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:

1 Section 1. Sections 11, 11a, 11b, and 11f of Act No. 280 of
2 the Public Acts of 1939, sections 11 and 11f as added by Act
3 No. 519 of the Public Acts of 1982, section 11a as amended by Act
4 No. 208 of the Public Acts of 1987, and section 11b as amended by
5 Act No. 422 of the Public Acts of 1988, being sections 400.11,

1 400.11a, 400.11b, and 400.11f of the Michigan Compiled Laws, are
2 amended to read as follows:

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

4 (a) "Abuse" means harm or threatened harm to an adult's
5 health or welfare caused by another person. Abuse includes, BUT
6 IS NOT LIMITED TO, nonaccidental physical or mental injury,
7 sexual abuse, or maltreatment.

8 (b) "Adult in need of protective services" or "adult" means
9 a vulnerable person not less than 18 years of age who is
10 ~~suspected of being~~ REASONABLY BELIEVED TO BE abused, neglected,
11 OR exploited. ~~, or endangered.~~

12 ~~(c) "Endangered" or "endangerment" means a life threatening~~
13 ~~situation caused by the inability of the person whose life is~~
14 ~~threatened to respond.~~

15 (C) ~~(d)~~ "Exploitation" means an action ~~which~~ THAT
16 involves the misuse of an adult's funds, property, or personal
17 dignity by another person.

18 (D) ~~(e)~~ "Neglect" means harm to an adult's health or wel-
19 fare caused by THE INABILITY OF THE ADULT TO RESPOND TO A HARMFUL
20 SITUATION OR BY the conduct of a person ~~responsible~~ WHO ASSUMES
21 RESPONSIBILITY for the adult's health or welfare. Neglect
22 includes the failure to provide adequate food, clothing, shelter,
23 or medical care. A person shall not be considered to be abused,
24 neglected, or in need of emergency or protective services for the
25 sole reason that the person is receiving or relying upon treat-
26 ment by spiritual means through prayer alone in accordance with
27 the tenets and practices of a recognized church or religious

1 denomination, and this act shall not require any medical care or
2 treatment in contravention of the stated or implied objection of
3 that person.

4 (E) ~~(f)~~ "Protective services" includes, but is not limited
5 to, remedial, social, legal, health, mental health, and referral
6 services provided in response to a report of alleged harm or
7 threatened harm because of abuse, neglect, OR exploitation. ~~—~~
8 ~~or endangerment.~~

9 (F) ~~(g)~~ "Vulnerable" means a condition in which an adult
10 is unable to protect himself or herself from abuse, neglect, OR
11 exploitation ~~—, or endangerment~~ because of a mental or physical
12 impairment or because of ~~the frailties or dependencies brought~~
13 ~~about by~~ advanced age.

14 Sec. 11a. (1) A person who is employed, licensed, regis-
15 tered, or certified to provide health care, educational, social
16 welfare, mental health, or other human services; an employee of
17 an agency licensed to provide health care, educational, social
18 welfare, mental health, or other human services; ~~or~~ a law
19 enforcement officer; ~~—~~ or an employee of the office of the
20 county medical examiner who ~~suspects or~~ has reasonable cause to
21 believe that an adult has been abused, neglected, OR exploited ~~—~~
22 ~~or is endangered,~~ shall make immediately, by telephone or other-
23 wise, an oral report to the county department of social services
24 of the county in which the abuse, neglect, OR exploitation ~~—, or~~
25 ~~endangerment~~ is ~~suspected of having~~ BELIEVED TO HAVE
26 occurred. After making the oral report, the reporting person may
27 file a written report with the county department. A person

1 described in this subsection who is also required to make a
2 report pursuant to section 21771 of the public health code, Act
3 No. 368 of the Public Acts of 1978, as amended, being section
4 333.21771 of the Michigan Compiled Laws and who makes that report
5 ~~shall~~ IS not ~~be~~ required to make a duplicate report to the
6 county department of social services under this section.

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

13 (3) In addition to those persons required to make an oral
14 report under subsection (1), any person who ~~suspects~~ HAS REA-
15 SONABLE CAUSE TO BELIEVE that an adult has been abused,
16 neglected, or exploited ~~, or is endangered,~~ may make a report
17 to the county department of social services of the county in
18 which the abuse, neglect, OR exploitation ~~, or endangerment~~ is
19 ~~suspected of having~~ BELIEVED TO HAVE occurred.

20 (4) A report made under this section shall contain the name
21 of the adult and a description of the abuse, neglect, OR
22 exploitation. ~~, or endangerment.~~ If possible, the report shall
23 contain the adult's age and the names and addresses of the
24 adult's guardian or next of kin, and of the persons with whom the
25 adult resides, including their relationship to the adult. The
26 report shall contain other information available to the reporting
27 person ~~which~~ THAT may establish the cause of the abuse,

1 neglect, OR exploitation ~~, or endangerment~~ and the manner in
2 which the abuse, neglect, or exploitation occurred ~~, or the~~
3 ~~endangerment~~ is occurring. The county department shall reduce
4 to writing the information provided in an oral report received
5 pursuant to this section.

6 (5) The county department shall report to a police agency
7 any criminal activity ~~which~~ THAT it believes to be occurring,
8 upon receipt of the oral report.

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

14 Sec. 11b. (1) Within 24 hours after receiving a report made
15 or information obtained pursuant to section 11a, the county
16 department of social services shall commence an investigation to
17 determine whether the person ~~suspected of being~~ BELIEVED TO BE
18 abused, neglected, OR exploited ~~, or endangered~~ is an adult in
19 need of protective services. A reasonable belief on the part of
20 the county department that the person is an adult in need of pro-
21 tective services is a sufficient basis for investigation. If an
22 investigation pertains to an adult residing in an adult foster
23 care facility licensed by the Michigan department of social serv-
24 ices, ~~then~~ the county department shall provide the adult foster
25 care licensee with the substance of the abuse or neglect allega-
26 tions as soon as practicable after the beginning of the
27 investigation. The licensee shall have the opportunity to

1 respond to the allegations, and the response shall be included in
2 the record.

3 (2) Upon a request by the county department, local law
4 enforcement officers shall cooperate with the county department
5 in an investigation of suspected abuse, neglect, OR
6 exploitation. ~~, or endangerment.~~ However, the investigation
7 required by this section shall not be in place of an investiga-
8 tion by the appropriate police agency regarding suspected crimi-
9 nal conduct arising from the suspected abuse, neglect, OR
10 exploitation. ~~, or endangerment.~~

11 (3) The investigation shall include a determination of the
12 nature, extent, and cause of the abuse, neglect, OR exploitation;
13 ~~, or endangerment,~~ examination of evidence; identification, if
14 possible, of the person responsible for the abuse, neglect, OR
15 exploitation; ~~, or endangerment,~~ the names and conditions of
16 other adults in the place of residence; an evaluation of the per-
17 sons responsible for the care of the adult, if appropriate; the
18 environment of the residence; the relationship of the adult to
19 the person responsible for the adult's care; an evaluation as to
20 whether or not the adult would consent to receiving protective
21 services; and any other pertinent data.

22 (4) The investigation shall include an interview with the
23 adult. The county department shall conduct the interview by
24 means of a personal visit with the adult in the adult's dwelling
25 or in the office of the county department, by telephone conversa-
26 tion, or by any other means that may be available to the county
27 department. In attempting to conduct a personal visit with the

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

7 (6) In the course of an investigation, the county department shall determine if the adult is or was abused, neglected, OR exploited. ~~or endangered.~~ 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. ~~or endangerment.~~ IF THE ABUSE, NEGLECT, OR EXPLOITATION INVOLVES SUBSTANCE ABUSE, THE COUNTY DEPARTMENT SHALL COLLABORATE WITH THE OFFICE OF SUBSTANCE ABUSE SERVICES IN THE DEPARTMENT OF PUBLIC HEALTH. 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

1 461 of Act No. 642 of the Public Acts of 1978, being section
2 700.461 of the Michigan Compiled Laws, for a vulnerable adult.

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

7 (8) The county department may provide a copy of the written
8 report to the prosecuting attorney for the county in which the
9 adult ~~suspected of being~~ BELIEVED TO BE abused, neglected, OR
10 exploited ~~, or endangered~~ resides or is found.

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

17 (2) The state department shall not investigate suspected
18 abuse, neglect, or any other suspected incident pursuant to sec-
19 tions 11 to 11e if the department of public health has investiga-
20 tive and enforcement responsibility for the incident pursuant to
21 section 20201, 21771, or 21799a of THE PUBLIC HEALTH CODE, Act
22 No. 368 of the Public Acts of 1978, as amended, being sections
23 333.20201, 333.21771, and 333.21799a of the Michigan Compiled
24 Laws. The state department shall refer a report of suspected
25 abuse or neglect in an institution governed by those sections to
26 the department of public health.

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

9 (4) The state department and the department of attorney gen-
10 eral shall enter into an agreement establishing criteria to be
11 used to determine those complaints involving a facility ~~which~~
12 THAT receives funding under title XIX of the social security act,
13 42 U.S.C. 1396 to 1396n, or involving the delivery of a service
14 funded under title XIX of the social security act, which com-
15 plaints shall be referred immediately to the department of attor-
16 ney general for possible investigation and prosecution.

17 ~~(5) Sections 11 to 11e shall not be construed as providing~~
18 ~~the basis for increased funding to the state department for its~~
19 ~~adult protective services program for the fiscal year in which~~
20 ~~this section takes effect and for the following fiscal year.~~