

SENATE BILL No. 673

November 1, 1989, Introduced by Senators NICHOLS,
CARL, WELBORN, DINGELL and POLLACK and referred
to the Committee on Criminal Justice and Urban
Affairs.

A bill to amend the title and sections 2 and 3 of Act
No. 238 of the Public Acts of 1975, entitled as amended
"Child protection law,"
sections 2 and 3 as amended by Act No. 372 of the Public Acts of
1988, being sections 722.622 and 722.623 of the Michigan Compiled
Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 2 and 3 of Act No. 238 of
2 the Public Acts of 1975, sections 2 and 3 as amended by Act
3 No. 372 of the Public Acts of 1988, being sections 722.622 and
4 722.623 of the Michigan Compiled Laws, are amended to read as
5 follows:

TITLE

1
2 An act to require the reporting of child abuse and neglect
3 by certain persons; to permit the reporting of child abuse and
4 neglect by all persons; to provide for the protection of children
5 who are abused or neglected; to authorize limited detainment in
6 protective custody; to authorize medical examinations; to pre-
7 scribe the powers and duties of the state department of ~~social~~
8 CHILDREN, YOUTH, AND FAMILY services to prevent child abuse and
9 neglect; to prescribe certain powers and duties of local law
10 enforcement agencies; to safeguard and enhance the welfare of
11 children and preserve family life; to provide for the appointment
12 of legal counsel; to provide for the abrogation of privileged
13 communications; to provide civil and criminal immunity for cer-
14 tain persons; to provide rules of evidence in certain cases; to
15 provide for confidentiality of records; to provide for the expun-
16 gement of certain records; to prescribe penalties; and to repeal
17 certain acts and parts of acts.

18 Sec. 2. As used in this act:

19 (a) "Central registry" means the system or organized mode of
20 keeping a record of all reports filed with the department pursu-
21 ant to this act in which relevant and accurate evidence of child
22 abuse or neglect is found to exist and which is maintained at the
23 department.

24 (b) "Child" means a person under 18 years of age.

25 (c) "Child abuse" means harm or threatened harm by a person
26 to a child's health or welfare which occurs through nonaccidental

1 physical or mental injury; sexual abuse; sexual exploitation; or
2 maltreatment.

3 (d) "Child neglect" means harm to a child's health or wel-
4 fare by a parent, legal guardian, or person who has custodial
5 care of the child which occurs through either of the following:

6 (i) Negligent treatment, including the failure to provide
7 adequate food, clothing, shelter, or medical care.

8 (ii) Placing a child at an unreasonable risk to the child's
9 health or welfare by failure of the parent, legal guardian, or
10 person who has custodial care of the child to intervene to elimi-
11 nate that risk when that person is able to do so and has knowl-
12 edge of the risk.

13 (e) "Sexual abuse" means engaging in sexual contact or
14 sexual penetration as defined in section 520a of the Michigan
15 penal code, Act No. 328 of the Public Acts of 1931, being section
16 750.520a of the Michigan Compiled Laws, with a child.

17 (f) "Sexual exploitation" includes allowing, permitting, or
18 encouraging a child to engage in prostitution, or allowing, per-
19 mitting, encouraging, or engaging in the photographing, filming,
20 or depicting of a child engaged in a listed sexual act as defined
21 in section 145c of Act No. 328 of the Public Acts of 1931, being
22 section 750.145c of the Michigan Compiled Laws.

23 (g) "Relevant evidence" means evidence having a tendency to
24 make the existence of a fact that is at issue more probable than
25 it would be without the evidence.

26 (h) "Department" means the state department of ~~social~~
27 CHILDREN, YOUTH, AND FAMILY services.

1 (i) "Expunge" means to physically remove or eliminate and
2 destroy a record or report.

3 (j) "Local office file" means the system or organized mode
4 of keeping a record of a written report, document, or photograph
5 filed with and maintained by a county or a regionally based
6 office of the department.

7 (k) "Person responsible for the child's health or welfare"
8 means a parent, legal guardian, person 18 years of age or older
9 who resides for any length of time in the same home in which the
10 child resides, or a person who cares for the child in a licensed
11 or unlicensed day care center, group day care home, or family day
12 care home as defined in section 1 of Act No. 116 of the Public
13 Acts of 1973, being section 722.111 of the Michigan Compiled
14 Laws.

15 Sec. 3. (1) A physician, coroner, dentist, medical examin-
16 er, nurse, a person licensed to provide emergency medical care,
17 audiologist, psychologist, family therapist, certified social
18 worker, social worker, social work technician, school administra-
19 tor, school counselor or teacher, law enforcement officer, or
20 regulated child care provider who has reasonable cause to suspect
21 child abuse or neglect shall make immediately, by telephone or
22 otherwise, an oral report, or cause an oral report to be made, of
23 the suspected child abuse or neglect to the department. Within
24 72 hours after making the oral report, the reporting person shall
25 file a written report as required in this act. If the reporting
26 person is a member of the staff of a hospital, agency, or school,
27 the reporting person shall notify the person in charge of the

1 hospital, agency, or school of his or her finding and that the
2 report has been made, and shall make a copy of the written report
3 available to the person in charge. One report from a hospital,
4 agency, or school shall be considered adequate to meet the
5 reporting requirement. A member of the staff of a hospital,
6 agency, or school shall not be dismissed or otherwise penalized
7 for making a report required by this act or for cooperating in an
8 investigation.

9 (2) The written report shall contain the name of the child
10 and a description of the abuse or neglect. If possible, the
11 report shall contain the names and addresses of the child's par-
12 ents, the child's guardian, the persons with whom the child
13 resides, and the child's age. The report shall contain other
14 information available to the reporting person which might estab-
15 lish the cause of the abuse or neglect, and the manner in which
16 the abuse or neglect occurred.

17 (3) The department shall inform the reporting person of the
18 required contents of the written report at the time the oral
19 report is made by the reporting person.

20 (4) The written report required in this section shall be
21 mailed or otherwise transmitted to the county department of
22 ~~social~~ CHILDREN, YOUTH, AND FAMILY services of the county in
23 which the child suspected of being abused or neglected is found.

24 (5) Upon receipt of a written report of suspected child
25 abuse or neglect, the department may provide copies to the prose-
26 cuting attorney and the probate court of the counties in which

1 the child suspected of being abused or neglected resides and is
2 found.

3 (6) If the report or subsequent investigation indicates a
4 violation of sections 136b and 145c or sections 520b to 520g of
5 the Michigan penal code, Act No. 328 of the Public Acts of 1931,
6 being sections 750.136b, 750.145c and 750.520b to 750.520g of the
7 Michigan Compiled Laws, or if the report or subsequent investiga-
8 tion indicates that the suspected abuse was not committed by a
9 person responsible for the child's health or welfare, and the
10 department believes that the report has basis in fact, the
11 department shall transmit a copy of the written report and the
12 results of any investigation to the prosecuting attorney of the
13 counties in which the child resides and is found.

14 (7) If a local law enforcement agency receives a written
15 report of suspected child abuse or neglect, whether from the
16 reporting person or the department, the report or subsequent
17 investigation indicates that the abuse or neglect was committed
18 by a person responsible for the child's health or welfare, and
19 the local law enforcement agency believes that the report has
20 basis in fact, the local law enforcement agency shall provide a
21 copy of the written report and the results of any investigation
22 to the county department of social services of the county in
23 which the abused or neglected child is found. Nothing in this
24 subsection or subsection (6) shall be construed to relieve the
25 department of its responsibility to investigate reports of sus-
26 pected child abuse or neglect under this act.

1 (8) For purposes of this act, the pregnancy of a child less
2 than 12 years of age or the presence of a venereal disease in a
3 child who is over 1 month of age but less than 12 years of age
4 shall be reasonable cause to suspect child abuse and neglect have
5 occurred.

6 Section 2. This amendatory act shall not take effect unless
7 Senate Bill No. 109 of the 85th Legislature is enacted into law.

8 Section 3. This amendatory act shall take effect October 1,
9 1990.