

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5984

(As amended by the Senate, December 10, 2002)

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending sections 2, 3, and 11 (MCL 722.622, 722.623, and
722.631), section 2 as amended by 2000 PA 45 and section 3 as
amended by 2002 PA 10.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
- 2 (A) "ADULT FOSTER CARE LOCATION AUTHORIZED TO CARE FOR A CHILD"
3 MEANS AN ADULT FOSTER CARE FAMILY HOME OR ADULT FOSTER CARE SMALL GROUP
4 HOME AS DEFINED IN SECTION 3 OF THE ADULT FOSTER CARE FACILITY LICENSING
5 ACT. 1979 PA 218. MCL 400.703. IN WHICH A CHILD IS PLACED IN ACCORDANCE
6 WITH SECTION 5 OF 1973 PA 116, MCL 722.115.
- 7 (B) ~~(a)~~ "Attorney" means, if appointed to represent a child
8 under the provisions referenced in section 10, an attorney serv-
9 ing as the child's legal advocate in the manner defined and
10 described in section 13a of chapter XIIIA of the probate code of
11 1939, 1939 PA 288, MCL 712A.13a.
- 12 (C) ~~(b)~~ "Central registry" means the system maintained at the
13 department that is used to keep a record of all reports filed

HB 5984, As Passed Senate, December 11, 2002

House Bill No. 5984 as amended December 10, 2002

2

1 with the department ~~pursuant to~~ UNDER this act in which relevant and
2 accurate evidence of child abuse or neglect is found to exist.

3 (D) ~~(c)~~ "Central registry case" means a child protective serv-
4 ices case that the department classifies under sections 8 and 8d
5 as category I or category II. For a child protective services
6 case that was investigated before July 1, 1999, central registry
7 case means an allegation of child abuse or neglect that the
8 department substantiated.

9 (E) ~~(d)~~ "Child" means a person under 18 years of age.

10 (F) ~~(e)~~ "Child abuse" means harm or threatened harm to a child's
11 health or welfare ~~by a parent, a legal guardian, or any other~~
12 ~~person responsible for the child's health or welfare, or by a~~
13 ~~teacher or teacher's aide,~~ that occurs through nonaccidental
14 physical or mental injury, ~~+~~ sexual abuse, ~~+~~ sexual exploita-
15 tion, ~~+~~ or maltreatment, BY A PARENT, A LEGAL GUARDIAN, OR ANY
16 OTHER PERSON RESPONSIBLE FOR THE CHILD'S HEALTH OR WELFARE OR BY
17 A TEACHER, A TEACHER'S AIDE, OR A MEMBER OF THE CLERGY.

(G) "CHILD CARE ORGANIZATION" MEANS THAT TERM AS DEFINED IN SECTION
1 OF 1973 PA 116. MCL 722.111.

(H) "CHILD CARE PROVIDER" MEANS AN OWNER, OPERATOR, EMPLOYEE, OR
VOLUNTEER OF A CHILD CARE ORGANIZATION OR OF AN ADULT FOSTER CARE
LOCATION AUTHORIZED TO CARE FOR A CHILD.

(I) "CHILD CARE REGULATORY AGENCY" MEANS THE DEPARTMENT OF CONSUMER
AND INDUSTRY SERVICES OR A SUCCESSOR STATE DEPARTMENT THAT IS RESPONSIBLE
FOR THE LICENSING OR REGISTRATION OF CHILD CARE ORGANIZATIONS OR THE
LICENSING OF ADULT FOSTER CARE LOCATIONS AUTHORIZED TO CARE FOR A CHILD.

18 (J) ~~(f)~~ "Child neglect" means harm or threatened harm to a
19 child's health or welfare by a parent, legal guardian, or any
20 other person responsible for the child's health or welfare that
21 occurs through either of the following:

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

24 (ii) Placing a child at an unreasonable risk to the child's
25 health or welfare by failure of the parent, legal guardian, or
26 other person responsible for the child's health or welfare to

HB 5984, As Passed Senate, December 11, 2002

House Bill No. 5984 as amended December 10, 2002

3

1 intervene to eliminate that risk when that person is able to do
2 so and has, or should have, knowledge of the risk.

3 (K) ~~(g)~~ "Citizen review panel" means a panel established as
4 required by section 106 of title I of the child abuse prevention
5 and treatment act, Public Law 93-247, 42 U.S.C. 5106a.

6 (L) "MEMBER OF THE CLERGY" MEANS A PRIEST, MINISTER, RABBI,
7 CHRISTIAN SCIENCE PRACTITIONER, OR OTHER RELIGIOUS PRACTITIONER,
8 OR SIMILAR FUNCTIONARY OF A CHURCH, TEMPLE, OR RECOGNIZED RELI-
9 GIOUS BODY, DENOMINATION, OR ORGANIZATION.

10 (M) ~~(h)~~ "Controlled substance" means that term as defined
11 in section 7104 of the public health code, 1978 PA 368,
12 MCL 333.7104.

13 (N) ~~(i)~~ "CPSI system" means the child protective service
14 information system, which is an internal data system maintained
15 within and by the department, and which is separate from the cen-
16 tral registry and not subject to section 7.

17 (O) ~~(j)~~ "Department" means the family independence
18 agency.

19 (P) ~~(k)~~ "Director" means the director of the department.

20 (Q) ~~(l)~~ "Expunge" means to physically remove or eliminate
21 and destroy a record or report.

22 (R) ~~(m)~~ "Lawyer-guardian ad litem" means an attorney
23 appointed under section 10 who has the powers and duties refer-
24 enced by section 10.

25 (S) ~~(n)~~ "Local office file" means the system used to keep
26 a record of a written report, document, or photograph filed with

HB 5984, As Passed Senate, December 11, 2002

House Bill No. 5984 as amended December 10, 2002

4

1 and maintained by a county or a regionally based office of the
2 department.

3 (T) ~~(o)~~ "Nonparent adult" means a person who is 18 years
4 of age or older and who, regardless of the person's domicile,
5 meets all of the following criteria in relation to a child:

6 (i) Has substantial and regular contact with the child.

7 (ii) Has a close personal relationship with the child's
8 parent or with a person responsible for the child's health or
9 welfare.

10 (iii) Is not the child's parent or a person otherwise
11 related to the child by blood or affinity to the third degree.

12 (U) ~~(p)~~ "Person responsible for the child's health or
13 welfare" means a parent, legal guardian, person 18 years of age
14 or older who resides for any length of time in the same home in
15 which the child resides, or, except when used in section 7(2)(e)
16 or 8(8), nonparent adult; or an owner, operator, volunteer, or
17 employee of 1 or more of the following:

18 (i) A licensed or ~~unlicensed~~ REGISTERED child care organization. ~~as~~
19 ~~defined in section 1 of 1973 PA 116, MCL 722.111.~~

20 (ii) A licensed or unlicensed adult foster care family home
21 or adult foster care small group home as defined in section 3 of
22 the adult foster care facility licensing act, 1979 PA 218,
23 MCL 400.703.

24 (V) ~~(q)~~ "Relevant evidence" means evidence having a ten-
25 dency to make the existence of a fact that is at issue more prob-
26 able than it would be without the evidence.

HB 5984, As Passed Senate, December 11, 2002

House Bill No. 5984 as amended December 10, 2002

5

1 (W) ~~(r)~~ "Sexual abuse" means engaging in sexual contact or
2 sexual penetration as those terms are defined in section 520a of
3 the Michigan penal code, 1931 PA 328, MCL 750.520a, with a
4 child.

5 (X) ~~(s)~~ "Sexual exploitation" includes allowing, permit-
6 ting, or encouraging a child to engage in prostitution, or allow-
7 ing, permitting, encouraging, or engaging in the photographing,
8 filming, or depicting of a child engaged in a listed sexual act
9 as defined in section 145c of the Michigan penal code, 1931
10 PA 328, MCL 750.145c.

11 (Y) ~~(t)~~ "Specified information" means information in a
12 central registry case record that relates specifically to refer-
13 rals or reports of child abuse or neglect. Specified information
14 does not include any of the following:

15 (i) Except as provided in this subparagraph regarding a per-
16 petrator of child abuse or neglect, personal identification
17 information for any individual identified in a child protective
18 services record. The exclusion of personal identification infor-
19 mation as specified information prescribed by this subparagraph
20 does not include personal identification information identifying
21 an individual alleged to have perpetrated child abuse or neglect,
22 which allegation has been classified as a central registry case.

23 (ii) Information in a law enforcement report as provided in
24 section 7(8).

25 (iii) Any other information that is specifically designated
26 as confidential under other law.

HB 5984, As Passed Senate, December 11, 2002

House Bill No. 5984 as amended December 10, 2002

6

1 (Z) ~~(u)~~ "Structured decision-making tool" means the
2 department document labeled "DSS-4752 (P3) (3-95)" or a revision
3 of that document that better measures the risk of future harm to
4 a child.

5 (AA) ~~(v)~~ "Substantiated" means a child protective services
6 case classified as a central registry case.

7 (BB) ~~(w)~~ "Unsubstantiated" means a child protective serv-
8 ices case the department classifies under sections 8 and 8d as
9 category III, category IV, or category V.

10 Sec. 3. (1) An individual is required to report under this
11 act as follows:

12 (a) A physician, dentist, physician's assistant, registered
13 dental hygienist, medical examiner, nurse, person licensed to
14 provide emergency medical care, audiologist, psychologist, mar-
15 riage and family therapist, licensed professional counselor, cer-
16 tified social worker, social worker, social work technician,
17 school administrator, school counselor or teacher, law enforce-
18 ment officer, MEMBER OF THE CLERGY, or regulated child care pro-
19 vider who has reasonable cause to suspect child abuse or neglect
20 shall make immediately, by telephone or otherwise, an oral
21 report, or cause an oral report to be made, of the suspected
22 child abuse or neglect to the department. Within 72 hours after
23 making the oral report, the reporting person shall file a written
24 report as required in this act. If the reporting person is a
25 member of the staff of a hospital, agency, or school, the report-
26 ing person shall notify the person in charge of the hospital,
27 agency, or school of his or her finding and that the report has

HB 5984, As Passed Senate, December 11, 2002

House Bill No. 5984

7

1 been made, and shall make a copy of the written report available
2 to the person in charge. A notification to the person in charge
3 of a hospital, agency, or school does not relieve the member of
4 the staff of the hospital, agency, or school of the obligation of
5 reporting to the department as required by this section. One
6 report from a hospital, agency, or school shall be considered
7 adequate to meet the reporting requirement. A member of the
8 staff of a hospital, agency, or school shall not be dismissed or
9 otherwise penalized for making a report required by this act or
10 for cooperating in an investigation.

11 (b) A department employee who is 1 of the following and has
12 reasonable cause to suspect child abuse or neglect shall make a
13 report of suspected child abuse or neglect to the department:

- 14 (i) Eligibility specialist.
- 15 (ii) Family independence manager.
- 16 (iii) Family independence specialist.
- 17 (iv) Social services specialist.
- 18 (v) Social work specialist.
- 19 (vi) Social work specialist manager.
- 20 (vii) Welfare services specialist.

21 (2) The written report shall contain the name of the child
22 and a description of the abuse or neglect. If possible, the
23 report shall contain the names and addresses of the child's par-
24 ents, the child's guardian, the persons with whom the child
25 resides, and the child's age. The report shall contain other
26 information available to the reporting person that might

HB 5984, As Passed Senate, December 11, 2002

House Bill No. 5984

8

1 establish the cause of the abuse or neglect, and the manner in
2 which the abuse or neglect occurred.

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

6 (4) The written report required in this section shall be
7 mailed or otherwise transmitted to the county family independence
8 agency of the county in which the child suspected of being abused
9 or neglected is found.

10 (5) Upon receipt of a written report of suspected child
11 abuse or neglect, the department may provide copies to the prose-
12 cuting attorney and the probate court of the counties in which
13 the child suspected of being abused or neglected resides and is
14 found.

15 ~~(6) If the report or subsequent investigation indicates a~~
16 ~~violation of sections 136b and 145c or sections 520b to 520g of~~
17 ~~the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, and~~
18 ~~750.520b to 750.520g, or if the report or subsequent investiga-~~
19 ~~tion indicates that the suspected abuse was not committed by a~~
20 ~~person responsible for the child's health or welfare, and the~~
21 ~~department believes that the report has basis in fact, the~~
22 ~~department shall transmit a copy of the written report and the~~
23 ~~results of any investigation to the prosecuting attorney of the~~
24 ~~counties in which the child resides and is found.~~

25 ~~(7) If a local law enforcement agency receives a written~~
26 ~~report of suspected child abuse or neglect, whether from the~~
27 ~~reporting person or the department, the report or subsequent~~

HB 5984, As Passed Senate, December 11, 2002

House Bill No. 5984 as amended December 10, 2002

9

1 ~~investigation indicates that the abuse or neglect was committed~~
2 ~~by a person responsible for the child's health or welfare, and~~
3 ~~the local law enforcement agency believes that the report has~~
4 ~~basis in fact, the local law enforcement agency shall provide a~~
5 ~~copy of the written report and the results of any investigation~~
6 ~~to the county family independence agency of the county in which~~
7 ~~the abused or neglected child is found. Nothing in this subsec-~~
8 ~~tion or subsection (6) shall be construed to relieve the depart-~~
9 ~~ment of its responsibility to investigate reports of suspected~~
10 ~~child abuse or neglect under this act.~~

11 (6) IF AN ALLEGATION, WRITTEN REPORT, OR SUBSEQUENT INVESTI-
12 GATION OF SUSPECTED CHILD ABUSE OR CHILD NEGLECT INDICATES A VIO-
13 LATION OF SECTIONS 136B AND 145C OR SECTIONS 520B TO 520G OF THE
14 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.136B, 750.145C, AND
15 750.520B TO 750.520G, HAS OCCURRED, OR IF THE ALLEGATION, WRITTEN
16 REPORT, OR SUBSEQUENT INVESTIGATION INDICATES THAT THE SUSPECTED
17 CHILD ABUSE OR CHILD NEGLECT WAS COMMITTED BY AN INDIVIDUAL WHO
18 IS NOT A PERSON RESPONSIBLE FOR THE CHILD'S HEALTH OR WELFARE,
19 INCLUDING, BUT NOT LIMITED TO, A MEMBER OF THE CLERGY, A TEACHER,
20 OR A TEACHER'S AIDE, THE DEPARTMENT SHALL TRANSMIT A COPY OF THE
21 ALLEGATION OR WRITTEN REPORT AND THE RESULTS OF ANY INVESTIGATION
22 TO A LAW ENFORCEMENT AGENCY IN THE COUNTY IN WHICH THE INCIDENT
23 OCCURRED. IF AN ALLEGATION, WRITTEN REPORT, OR SUBSEQUENT INVESTIGATION
INDICATES THAT THE INDIVIDUAL WHO COMMITTED THE SUSPECTED ABUSE OR
NEGLECT IS A CHILD CARE PROVIDER AND THE DEPARTMENT BELIEVES THAT THE
REPORT HAS BASIS IN FACT. THE DEPARTMENT SHALL TRANSMIT A COPY OF THE
WRITTEN REPORT OR THE RESULTS OF THE INVESTIGATION TO THE CHILD CARE
REGULATORY AGENCY WITH AUTHORITY OVER THE CHILD CARE PROVIDER'S CHILD
CARE ORGANIZATION OR ADULT FOSTER CARE LOCATION AUTHORIZED TO CARE FOR A
CHILD.

24 (7) IF A LOCAL LAW ENFORCEMENT AGENCY RECEIVES AN ALLEGATION
25 OR WRITTEN REPORT OF SUSPECTED CHILD ABUSE OR CHILD NEGLECT AND
26 THE ALLEGATION, WRITTEN REPORT, OR SUBSEQUENT INVESTIGATION
27 INDICATES THAT THE CHILD ABUSE OR CHILD NEGLECT WAS COMMITTED BY

HB 5984, As Passed Senate, December 11, 2002

House Bill No. 5984 as amended December 10, 2002

10

1 A PERSON RESPONSIBLE FOR THE CHILD'S HEALTH OR WELFARE, THE LOCAL
2 LAW ENFORCEMENT AGENCY SHALL REFER THE ALLEGATION OR PROVIDE A
3 COPY OF THE WRITTEN REPORT AND THE RESULTS OF ANY INVESTIGATION
4 TO THE COUNTY FAMILY INDEPENDENCE AGENCY OF THE COUNTY IN WHICH
5 THE ABUSED OR NEGLECTED CHILD IS FOUND, AS REQUIRED BY
6 SUBSECTION (1)(A). IF AN ALLEGATION, WRITTEN REPORT, OR SUBSEQUENT
INVESTIGATION INDICATES THAT THE INDIVIDUAL WHO COMMITTED THE SUSPECTED
ABUSE OR NEGLECT IS A CHILD CARE PROVIDER AND THE LOCAL LAW ENFORCEMENT
AGENCY BELIEVES THAT THE REPORT HAS BASIS IN FACT, THE LOCAL LAW
ENFORCEMENT AGENCY SHALL TRANSMIT A COPY OF THE WRITTEN REPORT OR THE
RESULTS OF THE INVESTIGATION TO THE CHILD CARE REGULATORY AGENCY WITH
AUTHORITY OVER THE CHILD CARE PROVIDER'S CHILD CARE ORGANIZATION OR ADULT
FOSTER CARE LOCATION AUTHORIZED TO CARE FOR A CHILD. NOTHING IN THIS
7 SUBSECTION OR SUBSECTION (1)
8 SHALL BE CONSTRUED TO RELIEVE THE DEPARTMENT OF ITS RESPONSIBILI-
9 TIES TO INVESTIGATE REPORTS OF SUSPECTED CHILD ABUSE OR CHILD
10 NEGLECT UNDER THIS ACT.

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

16 Sec. 11. Any legally recognized privileged communication
17 except that between attorney and client OR THAT MADE TO A MEMBER
18 OF THE CLERGY IN HIS OR HER PROFESSIONAL CHARACTER IN A CONFES-
19 SION OR SIMILARLY CONFIDENTIAL COMMUNICATION is abrogated and
20 shall ~~neither~~ NOT constitute grounds for excusing a report oth-
21 erwise required to be made ~~nor~~ OR for excluding evidence in a
22 civil child protective proceeding resulting from a report made
23 pursuant to this act. THIS SECTION DOES NOT RELIEVE A MEMBER OF
24 THE CLERGY FROM REPORTING SUSPECTED CHILD ABUSE OR CHILD NEGLECT
25 UNDER SECTION 3 IF THAT MEMBER OF THE CLERGY RECEIVES INFORMATION
26 CONCERNING SUSPECTED CHILD ABUSE OR CHILD NEGLECT WHILE ACTING IN
ANY OTHER CAPACITY LISTED UNDER SECTION 3.

HB 5984, As Passed Senate, December 11, 2002

House Bill No. 5984

11

1 Enacting section 1. This amendatory act takes effect
2 March 1, 2003.