

# HOUSE BILL No. 5984

April 30, 2002, Introduced by Rep. DeWeese and referred to the Committee on Family and Children Services.

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) "Attorney" means, if appointed to represent a child  
3 under the provisions referenced in section 10, an attorney serv-  
4 ing as the child's legal advocate in the manner defined and  
5 described in section 13a of chapter XIIIA of the probate code of  
6 1939, 1939 PA 288, MCL 712A.13a.

7           (b) "Central registry" means the system maintained at the  
8 department that is used to keep a record of all reports filed

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

3 (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 (d) "Child" means a person under 18 years of age.

10 (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, OR BY A MEMBER OF THE CLERGY, that  
14 occurs through nonaccidental physical or mental injury; sexual  
15 abuse; sexual exploitation; or maltreatment.

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

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

22 (ii) Placing a child at an unreasonable risk to the child's  
23 health or welfare by failure of the parent, legal guardian, or  
24 other person responsible for the child's health or welfare to  
25 intervene to eliminate that risk when that person is able to do  
26 so and has, or should have, knowledge of the risk.

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

4 (H) "MEMBER OF THE CLERGY" MEANS AN INDIVIDUAL WHO IS  
5 ORDAINED AS A RELIGIOUS LEADER BY A CHURCH, DENOMINATION, RELI-  
6 GIOUS ASSOCIATION, OR RELIGIOUS SECT.

7 (I) ~~(h)~~ "Controlled substance" means that term as defined  
8 in section 7104 of the public health code, 1978 PA 368,  
9 MCL 333.7104.

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

14 (K) ~~(j)~~ "Department" means the family independence  
15 agency.

16 (l) ~~(k)~~ "Director" means the director of the department.

17 (M) ~~(l)~~ "Expunge" means to physically remove or eliminate  
18 and destroy a record or report.

19 (N) ~~(m)~~ "Lawyer-guardian ad litem" means an attorney  
20 appointed under section 10 who has the powers and duties refer-  
21 enced by section 10.

22 (O) ~~(n)~~ "Local office file" means the system used to keep  
23 a record of a written report, document, or photograph filed with  
24 and maintained by a county or a regionally based office of the  
25 department.

1           (P) ~~(o)~~ "Nonparent adult" means a person who is 18 years  
2 of age or older and who, regardless of the person's domicile,  
3 meets all of the following criteria in relation to a child:

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

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

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

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

16          (i) A licensed or unlicensed child care organization as  
17 defined in section 1 of 1973 PA 116, MCL 722.111.

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

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

25          (S) ~~(r)~~ "Sexual abuse" means engaging in sexual contact or  
26 sexual penetration as those terms are defined in section 520a of

1 the Michigan penal code, 1931 PA 328, MCL 750.520a, with a  
2 child.

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

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

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

21 (ii) Information in a law enforcement report as provided in  
22 section 7(8).

23 (iii) Any other information that is specifically designated  
24 as confidential under other law.

25 (V) ~~(u)~~ "Structured decision-making tool" means the  
26 department document labeled "DSS-4752 (P3) (3-95)" or a revision

1 of that document that better measures the risk of future harm to  
2 a child.

3 (W) ~~(v)~~ "Substantiated" means a child protective services  
4 case classified as a central registry case.

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

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

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

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

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

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

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

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

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

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

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

23           (7) If a local law enforcement agency receives a written  
24 report of suspected child abuse or neglect, whether from the  
25 reporting person or the department, the report or subsequent  
26 investigation indicates that the abuse or neglect was committed  
27 by a person responsible for the child's health or welfare, and



1 the local law enforcement agency believes that the report has  
2 basis in fact, the local law enforcement agency shall 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. Nothing in this subsec-  
6 tion or subsection (6) shall be construed to relieve the depart-  
7 ment of its responsibility to investigate reports of suspected  
8 child abuse or neglect under this act.

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

14 Sec. 11. Any legally recognized privileged communication  
15 except that between attorney and client OR THE MINISTER, PRIEST,  
16 OR CHRISTIAN SCIENCE PRACTITIONER PRIVILEGE is abrogated and  
17 shall ~~neither~~ NOT constitute grounds for excusing a report oth-  
18 erwise required to be made ~~nor~~ OR for excluding evidence in a  
19 civil child protective proceeding resulting from a report made  
20 pursuant to this act.