

HOUSE BILL No. 6350

November 10, 2004, Introduced by Reps. Sheen, Hummel, Pastor, Stakoe, Palsrok, Kooiman, Garfield, Vander Veen, Stahl, Pappageorge and Shaffer and referred to the Committee on Judiciary.

A bill to amend 1975 PA 238, entitled "Child protection law," by amending sections 8 and 8c (MCL 722.628 and 722.628c), section 8 as amended by 2004 PA 195 and section 8c as added by 1997 PA 168.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8. (1) Within 24 hours after receiving a report made
2 under this act, the department shall refer the report to the
3 prosecuting attorney if the report meets the requirements of
4 section 3(6) or shall commence an investigation of the child
5 suspected of being abused or neglected. Within 24 hours after
6 receiving a report whether from the reporting person or from the
7 department under section 3(6), the local law enforcement agency
8 shall refer the report to the department if the report meets the
9 requirements of section 3(7) or shall commence an investigation

1 of the child suspected of being abused or neglected. If the
2 child suspected of being abused is not in the physical custody of
3 the parent or legal guardian and informing the parent or legal
4 guardian would not endanger the child's health or welfare, the
5 agency or the department shall inform the child's parent or legal
6 guardian of the investigation as soon as the agency or the
7 department discovers the identity of the child's parent or legal
8 guardian.

9 (2) In the course of its investigation, the department shall
10 determine if the child is abused or neglected. The department
11 shall cooperate with law enforcement officials, courts of
12 competent jurisdiction, and appropriate state agencies providing
13 human services in relation to preventing, identifying, and
14 treating child abuse and neglect; shall provide, enlist, and
15 coordinate the necessary services, directly or through the
16 purchase of services from other agencies and professions; and
17 shall take necessary action to prevent further abuses, to
18 safeguard and enhance the child's welfare, and to preserve family
19 life where possible. In the course of an investigation, at the
20 time that a department investigator contacts an individual about
21 whom a report has been made under this act or contacts an
22 individual responsible for the health or welfare of a child about
23 whom a report has been made under this act, the department
24 investigator shall advise that individual of the department
25 investigator's name, whom the department investigator represents,
26 and the specific complaints or allegations made against the
27 individual. The department shall ensure that its policies,

1 procedures, and administrative rules ensure compliance with the
2 provisions of this act.

3 (3) In conducting its investigation, the department shall
4 seek the assistance of and cooperate with law enforcement
5 officials within 24 hours after becoming aware that 1 or more of
6 the following conditions exist:

7 (a) Abuse or neglect is the suspected cause of a child's
8 death.

9 (b) The child is the victim of suspected sexual abuse or
10 sexual exploitation.

11 (c) Abuse or neglect resulting in severe physical injury to
12 the child requires medical treatment or hospitalization. For
13 purposes of this subdivision and section 17, "severe physical
14 injury" means brain damage, skull or bone fracture, subdural
15 hemorrhage or hematoma, dislocation, sprains, internal injuries,
16 poisoning, burns, scalds, severe cuts, or any other physical
17 injury that seriously impairs the health or physical well-being
18 of a child.

19 (d) Law enforcement intervention is necessary for the
20 protection of the child, a department employee, or another person
21 involved in the investigation.

22 (e) The alleged perpetrator of the child's injury is not a
23 person responsible for the child's health or welfare.

24 (4) Law enforcement officials shall cooperate with the
25 department in conducting investigations under subsections (1) and
26 (3) and shall comply with sections 5 and 7. The department and
27 law enforcement officials shall conduct investigations in

1 compliance with the protocols adopted and implemented as required
2 by subsection (6).

3 (5) Involvement of law enforcement officials under this
4 section does not relieve or prevent the department from
5 proceeding with its investigation or treatment if there is
6 reasonable cause to suspect that the child abuse or neglect was
7 committed by a person responsible for the child's health or
8 welfare.

9 (6) In each county, the prosecuting attorney and the
10 department shall develop and establish procedures for involving
11 law enforcement officials as provided in this section. In each
12 county, the prosecuting attorney and the department shall adopt
13 and implement standard child abuse and neglect investigation and
14 interview protocols using as a model the protocols developed by
15 the governor's task force on children's justice as published in
16 FIA Publication 794 (revised 8-98) and FIA Publication 779
17 (8-98), or an updated version of those publications.

18 (7) If there is reasonable cause to suspect that a child in
19 the care of or under the control of a public or private agency,
20 institution, or facility is an abused or neglected child, the
21 agency, institution, or facility shall be investigated by an
22 agency administratively independent of the agency, institution,
23 or facility being investigated. If the investigation produces
24 evidence of a violation of section 145c or sections 520b to 520g
25 of the Michigan penal code, 1931 PA 328, MCL 750.145c and
26 750.520b to 750.520g, the investigating agency shall transmit a
27 copy of the results of the investigation to the prosecuting

1 attorney of the county in which the agency, institution, or
2 facility is located.

3 (8) A school or other institution shall cooperate with the
4 department during an investigation of a report of child abuse or
5 neglect. Cooperation includes allowing access to the child
6 without parental consent if access is determined by the
7 department to be necessary to complete the investigation or to
8 prevent abuse or neglect of the child. However, the department
9 shall notify the person responsible for the child's health or
10 welfare about the department's contact with the child at the time
11 or as soon afterward as the person can be reached. The
12 department may delay the notice if the notice would compromise
13 the safety of the child or child's siblings or the integrity of
14 the investigation, but only for the time 1 of those conditions
15 exists.

16 (9) If the department has contact with a child in a school,
17 all of the following apply:

18 (a) Before contact with the child, the department
19 investigator shall review with the designated school staff person
20 the department's responsibilities under this act and the
21 investigation procedure.

22 (b) The designated school staff person or another individual
23 with whom the child is familiar shall be present during an
24 interview with the child by the department investigator. The
25 designated school staff person or other individual with whom the
26 child is familiar who is present during the interview must be
27 someone with whom the child feels comfortable.

1 **(c)** ~~-(b)-~~ After contact with the child, the department
2 investigator shall meet with the designated school staff person
3 and the child about the response the department will take as a
4 result of contact with the child. The department may also meet
5 with the designated school staff person without the child present
6 and share additional information the investigator determines may
7 be shared subject to the confidentiality provisions of this act.

8 **(d)** ~~-(e)-~~ Lack of cooperation by the school does not relieve
9 or prevent the department from proceeding with its
10 responsibilities under this act.

11 (10) A child shall not be subjected to a search at a school
12 that requires the child to remove his or her clothing to expose
13 his buttocks or genitalia or her breasts, buttocks, or genitalia
14 unless the department has obtained an order from a court of
15 competent jurisdiction permitting such a search. If the access
16 occurs within a hospital, the investigation shall be conducted so
17 as not to interfere with the medical treatment of the child or
18 other patients.

19 (11) The department shall enter each report made under this
20 act that is the subject of a field investigation into the CPSI
21 system. The department shall maintain a report entered on the
22 CPSI system as required by this subsection until the child about
23 whom the investigation is made is 18 years old or until 10 years
24 after the investigation is commenced, whichever is later, or, if
25 the case is classified as a central registry case, until the
26 department receives reliable information that the perpetrator of
27 the abuse or neglect is dead. Unless made public as specified

1 information released under section 7d, a report that is
2 maintained on the CPSI system is confidential and is not subject
3 to the disclosure requirements of the freedom of information act,
4 1976 PA 442, MCL 15.231 to 15.246.

5 (12) After completing a field investigation and based on its
6 results, the department shall determine in which single category,
7 prescribed by section 8d, to classify the allegation of child
8 abuse or neglect.

9 (13) Except as provided in subsection (14), upon completion
10 of the investigation by the local law enforcement agency or the
11 department, the law enforcement agency or department may inform
12 the person who made the report as to the disposition of the
13 report.

14 (14) If the person who made the report is mandated to report
15 under section 3, upon completion of the investigation by the
16 department, the department shall inform the person in writing as
17 to the disposition of the case and shall include in the
18 information at least all of the following:

19 (a) What determination the department made under subsection
20 (12) and the rationale for that decision.

21 (b) Whether legal action was commenced and, if so, the nature
22 of that action.

23 (c) Notification that the information being conveyed is
24 confidential.

25 (15) Information sent under subsection (14) shall not include
26 personally identifying information for a person named in a report
27 or record made under this act.

1 (16) Unless section 5 of chapter XII of the probate code of
2 1939, 1939 PA 288, MCL 712.5, requires a physician to report to
3 the department, the surrender of a newborn in compliance with
4 chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1
5 to 712.20, is not reasonable cause to suspect child abuse or
6 neglect and is not subject to the section 3 reporting
7 requirement. This subsection does not apply to circumstances
8 that arise on or after the date that chapter XII of the probate
9 code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is repealed.
10 This subsection applies to a newborn whose birth is described in
11 the born alive infant protection act and who is considered to be
12 a newborn surrendered under the safe delivery of newborns law as
13 provided in section 3 of chapter XII of the probate code of 1939,
14 1939 PA 288, MCL 712.3.

15 (17) All department employees involved in investigating child
16 abuse or child neglect cases shall be trained in the legal duties
17 to protect the state and federal constitutional and statutory
18 rights of children and families from the initial contact of an
19 investigation through the time services are provided.

20 Sec. 8c. **(1)** During an investigation of suspected child
21 abuse or neglect, the child reported to have been abused or
22 neglected shall not be interviewed in the presence of an
23 individual suspected to have perpetrated the abuse.

24 **(2) During an investigation of suspected child abuse or**
25 **neglect, the child reported to have been abused or neglected**
26 **shall be interviewed in the presence of a designated school staff**
27 **person or other individual with whom the child is familiar. The**

- 1 designated school staff person or other individual with whom the
- 2 child is familiar who is present during the interview must be
- 3 someone with whom the child feels comfortable.