

**SUBSTITUTE FOR
SENATE BILL NO. 1410**

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending sections 3 and 8 (MCL 722.623 and 722.628), section 3
as amended by 2006 PA 264 and section 8 as amended by 2006 PA 256.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 (a) A physician, dentist, physician's assistant, registered
4 dental hygienist, medical examiner, nurse, person licensed to
5 provide emergency medical care, audiologist, psychologist, marriage
6 and family therapist, licensed professional counselor, social
7 worker, licensed master's social worker, licensed bachelor's social
8 worker, registered social service technician, social service

1 technician, school administrator, school counselor or teacher, law
2 enforcement officer, member of the clergy, or regulated child care
3 provider who has reasonable cause to suspect child abuse or neglect
4 shall make immediately, by telephone or otherwise, an oral report,
5 or cause an oral report to be made, of the suspected child abuse or
6 neglect to the department. Within 72 hours after making the oral
7 report, the reporting person shall file a written report as
8 required in this act. If the reporting person is a member of the
9 staff of a hospital, agency, or school, the reporting person shall
10 notify the person in charge of the hospital, agency, or school of
11 his or her finding and that the report has been made, and shall
12 make a copy of the written report available to the person in
13 charge. A notification to the person in charge of a hospital,
14 agency, or school does not relieve the member of the staff of the
15 hospital, agency, or school of the obligation of reporting to the
16 department as required by this section. One report from a hospital,
17 agency, or school is adequate to meet the reporting requirement. A
18 member of the staff of a hospital, agency, or school shall not be
19 dismissed or otherwise penalized for making a report required by
20 this act or for cooperating in an investigation.

21 (b) A department employee who is 1 of the following and has
22 reasonable cause to suspect child abuse or neglect shall make a
23 report of suspected child abuse or neglect to the department **IN THE**
24 **SAME MANNER AS REQUIRED UNDER SUBDIVISION (A) :**

- 25 (i) Eligibility specialist.
26 (ii) Family independence manager.
27 (iii) Family independence specialist.

1 (iv) Social services specialist.

2 (v) Social work specialist.

3 (vi) Social work specialist manager.

4 (vii) Welfare services specialist.

5 (2) The written report shall contain the name of the child and
6 a description of the abuse or neglect. If possible, the report
7 shall contain the names and addresses of the child's parents, the
8 child's guardian, the persons with whom the child resides, and the
9 child's age. The report shall contain other information available
10 to the reporting person that might establish the cause of the abuse
11 or neglect, and the manner in which the abuse or neglect occurred.

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

15 (4) The written report required in this section shall be
16 mailed or otherwise transmitted to the county department of the
17 county in which the child suspected of being abused or neglected is
18 found.

19 (5) Upon receipt of a written report of suspected child abuse
20 or neglect, the department may provide copies to the prosecuting
21 attorney and the probate court of the counties in which the child
22 suspected of being abused or neglected resides and is found.

23 (6) If an allegation, written report, or subsequent
24 investigation of suspected child abuse or child neglect indicates a
25 violation of sections 136b and 145c, sections 520b to 520g of the
26 Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, and
27 750.520b to 750.520g, or section 7401c of the public health code,

1 1978 PA 368, MCL 333.7401c, involving methamphetamine has occurred,
2 or if the allegation, written report, or subsequent investigation
3 indicates that the suspected child abuse or child neglect was
4 committed by an individual who is not a person responsible for the
5 child's health or welfare, including, but not limited to, a member
6 of the clergy, a teacher, or a teacher's aide, the department shall
7 transmit a copy of the allegation or written report and the results
8 of any investigation to a law enforcement agency in the county in
9 which the incident occurred. If an allegation, written report, or
10 subsequent investigation indicates that the individual who
11 committed the suspected abuse or neglect is a child care provider
12 and the department believes that the report has basis in fact, the
13 department shall, **WITHIN 24 HOURS OF COMPLETION**, transmit a copy of
14 the written report or the results of the investigation to the child
15 care regulatory agency with authority over the child care
16 provider's child care organization or adult foster care location
17 authorized to care for a child.

18 (7) If a local law enforcement agency receives an allegation
19 or written report of suspected child abuse or child neglect or
20 discovers evidence of or receives a report of an individual
21 allowing a child to be exposed to or to have contact with
22 methamphetamine production, and the allegation, written report, or
23 subsequent investigation indicates that the child abuse or child
24 neglect or allowing a child to be exposed to or to have contact
25 with methamphetamine production, was committed by a person
26 responsible for the child's health or welfare, the local law
27 enforcement agency shall refer the allegation or provide a copy of

1 the written report and the results of any investigation to the
2 county department of the county in which the abused or neglected
3 child is found, as required by subsection (1)(a). If an allegation,
4 written report, or subsequent investigation indicates that the
5 individual who committed the suspected abuse or neglect or allowed
6 a child to be exposed to or to have contact with methamphetamine
7 production, is a child care provider and the local law enforcement
8 agency believes that the report has basis in fact, the local law
9 enforcement agency shall transmit a copy of the written report or
10 the results of the investigation to the child care regulatory
11 agency with authority over the child care provider's child care
12 organization or adult foster care location authorized to care for a
13 child. Nothing in this subsection or subsection (1) shall be
14 construed to relieve the department of its responsibilities to
15 investigate reports of suspected child abuse or child neglect under
16 this act.

17 (8) For purposes of this act, the pregnancy of a child less
18 than 12 years of age or the presence of a venereal disease in a
19 child who is over 1 month of age but less than 12 years of age is
20 reasonable cause to suspect child abuse and neglect have occurred.

21 (9) In conducting an investigation of child abuse or child
22 neglect, if the department suspects that a child has been exposed
23 to or has had contact with methamphetamine production, the
24 department shall immediately contact the law enforcement agency in
25 the county in which the incident occurred.

26 Sec. 8. (1) Within 24 hours after receiving a report made
27 under this act, the department shall refer the report to the

1 prosecuting attorney **AND THE LOCAL LAW ENFORCEMENT AGENCY** if the
2 report meets the requirements of **SUBSECTION (3) (A), (B), OR (C) OR**
3 section 3(6) or (9) or shall commence an investigation of the child
4 suspected of being abused or neglected. Within 24 hours after
5 receiving a report whether from the reporting person or from the
6 department under **SUBSECTION (3) (A), (B), OR (C) OR** section 3(6) or
7 (9), the local law enforcement agency shall refer the report to the
8 department if the report meets the requirements of section 3(7) or
9 shall commence an investigation of the child suspected of being
10 abused or neglected or exposed to or who has had contact with
11 methamphetamine production. If the child suspected of being abused
12 or exposed to or who has had contact with methamphetamine
13 production is not in the physical custody of the parent or legal
14 guardian and informing the parent or legal guardian would not
15 endanger the child's health or welfare, the agency or the
16 department shall inform the child's parent or legal guardian of the
17 investigation as soon as the agency or the department discovers the
18 identity of the child's parent or legal guardian.

19 (2) In the course of its investigation, the department shall
20 determine if the child is abused or neglected. The department shall
21 cooperate with law enforcement officials, courts of competent
22 jurisdiction, and appropriate state agencies providing human
23 services in relation to preventing, identifying, and treating child
24 abuse and neglect; shall provide, enlist, and coordinate the
25 necessary services, directly or through the purchase of services
26 from other agencies and professions; and shall take necessary
27 action to prevent further abuses, to safeguard and enhance the

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1 child's welfare, and to preserve family life where possible. In the
2 course of an investigation, at the time that a department
3 investigator contacts an individual about whom a report has been
4 made under this act or contacts an individual responsible for the
5 health or welfare of a child about whom a report has been made
6 under this act, the department investigator shall advise that
7 individual of the department investigator's name, whom the
8 department investigator represents, and the specific complaints or
9 allegations made against the individual. The department shall
10 ensure that its policies, procedures, and administrative rules
11 ensure compliance with the provisions of this act.

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

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

18 (b) The child is the victim of suspected sexual abuse or
19 sexual exploitation.

20 (c) Abuse or neglect resulting in severe physical injury to
21 the child ~~[requires medical treatment or hospitalization]~~. For
22 purposes of this subdivision and section 17, "severe physical
23 injury" means ~~[brain damage, skull or bone fracture, subdural
24 hemorrhage or hematoma, dislocation, sprains, internal injuries,
25 poisoning, burns, scalds, severe cuts, or any other physical injury~~ **AN
INJURY TO THE CHILD THAT REQUIRES MEDICAL TREATMENT OR HOSPITALIZATION
AND]**
26 that seriously impairs the **[CHILD'S]** health or physical well-being ~~[of a
27 child]~~.

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

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

6 (f) The child has been exposed to or had contact with
7 methamphetamine production.

8 (4) Law enforcement officials shall cooperate with the
9 department in conducting investigations under subsections (1) and
10 (3) and shall comply with sections 5 and 7. The department and law
11 enforcement officials shall conduct investigations in compliance
12 with the protocols adopted and implemented as required by
13 subsection (6).

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

19 (6) In each county, the prosecuting attorney and the
20 department shall develop and establish procedures for involving law
21 enforcement officials as provided in this section. In each county,
22 the prosecuting attorney and the department shall adopt and
23 implement standard child abuse and neglect investigation and
24 interview protocols using as a model the protocols developed by the
25 governor's task force on children's justice as published in FIA
26 Publication 794 (revised 8-98) and FIA Publication 779 (8-98), or
27 an updated version of those publications.

1 (7) If there is reasonable cause to suspect that a child in
2 the care of or under the control of a public or private agency,
3 institution, or facility is an abused or neglected child, the
4 agency, institution, or facility shall be investigated by an agency
5 administratively independent of the agency, institution, or
6 facility being investigated. If the investigation produces evidence
7 of a violation of section 145c or sections 520b to 520g of the
8 Michigan penal code, 1931 PA 328, MCL 750.145c and 750.520b to
9 750.520g, the investigating agency shall transmit a copy of the
10 results of the investigation to the prosecuting attorney of the
11 county in which the agency, institution, or facility is located.

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

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

26 (a) Before contact with the child, the department investigator
27 shall review with the designated school staff person the

1 department's responsibilities under this act and the investigation
2 procedure.

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

10 (c) Lack of cooperation by the school does not relieve or
11 prevent the department from proceeding with its responsibilities
12 under this act.

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

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

1 receives reliable information that the perpetrator of the abuse or
2 neglect is dead. Unless made public as specified information
3 released under section 7d, a report that is maintained on the CPSI
4 system is confidential and is not subject to the disclosure
5 requirements of the freedom of information act, 1976 PA 442, MCL
6 15.231 to 15.246.

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

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

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

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

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

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

26 (15) Information sent under subsection (14) shall not include
27 personally identifying information for a person named in a report

1 or record made under this act.

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