

SENATE BILL NO. 603

June 11, 1997, Introduced by Senators STEIL, GOUGEON, CISKY, STILLE, ROGERS, SHUGARS, GEAKE, VAN REGENMORTER, EMMONS, KOIVISTO, NORTH, O'BRIEN, MC MANUS, BENNETT and GAST and referred to the Committee on Families, Mental Health and Human Services.

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending section 8 (MCL 722.628), as amended by 1988 PA 372.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8. (1) Within 24 hours after receiving a report made
2 pursuant to this act, the department shall refer the report to
3 the prosecuting attorney if the report meets the requirements of
4 section 3(6) or shall commence an investigation of the child sus-
5 pected 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
10 of the child suspected of being abused or neglected. If the
11 child suspected of being abused is not in the physical custody of

1 the parent or legal guardian and informing the parent or legal
2 guardian would not endanger the child's health or welfare, the
3 agency or the department shall inform the child's parent or legal
4 guardian of the investigation as soon as the agency or the
5 department discovers the identity of the child's parent or legal
6 guardian.

7 (2) In the course of its investigation, the department shall
8 determine if the child is abused or neglected. The department
9 shall cooperate with law enforcement officials, courts of compe-
10 tent jurisdiction, and appropriate state agencies providing human
11 services in relation to preventing, identifying, and treating
12 child abuse and neglect; shall provide, enlist, and coordinate
13 the necessary services, directly or through the purchase of serv-
14 ices from other agencies and professions; and shall take neces-
15 sary action to prevent further abuses, to safeguard and enhance
16 the welfare of the child, and to preserve family life where
17 possible.

18 (3) In conducting its investigation, the department shall
19 seek the assistance of and cooperate with law enforcement offi-
20 cials within 24 hours after becoming aware that 1 or more of the
21 following conditions exists:

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

24 (b) The child is the victim of suspected sexual abuse or
25 sexual exploitation.

26 (c) Abuse or neglect resulting in severe physical injury to
27 the child requires medical treatment or hospitalization. For

1 purposes of this subdivision, "severe physical injury" means
2 brain damage, skull or bone fracture, subdural hemorrhage or
3 hematoma, dislocation, sprains, internal injuries, poisoning,
4 burns, scalds, severe cuts, or any other physical injury that
5 seriously impairs the health or physical well-being of a child.

6 (d) Law enforcement intervention is necessary for the pro-
7 tection of the child, a department employee, or another person
8 involved in the investigation.

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

11 (4) Law enforcement officials shall cooperate with the
12 department in conducting investigations pursuant to subsections
13 (1) and (3) and shall comply with sections 5 and 7.

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

20 (6) In each county, the prosecuting attorney and the depart-
21 ment shall develop and establish procedures for involving law
22 enforcement officials as provided in this section.

23 (7) If there is reasonable cause to suspect that a child in
24 the care of or under the control of a public or private agency,
25 institution, or facility is an abused or neglected child, the
26 agency, institution, or facility shall be investigated by an
27 agency administratively independent of the agency, institution,

1 or facility being investigated. If the investigation produces
2 evidence of a violation of section 145c or sections 520b to 520g
3 of the Michigan penal code, ~~Act No. 328 of the Public Acts of~~
4 ~~1931, being sections 750.145c and 750.520b to 750.520g of the~~
5 ~~Michigan Compiled Laws~~ 1931 PA 328, MCL 750.145C AND 750.520B TO
6 750.520G, the investigating agency shall transmit a copy of the
7 results of the investigation to the prosecuting attorney of the
8 county in which the agency, institution, or facility is located.
9 The prosecuting attorney may proceed under sections 135 to 145c
10 or 520b to 520g of ~~Act No. 328 of the Public Acts of 1931, as~~
11 ~~amended, being sections 750.135 to 750.145c and 750.520b to~~
12 ~~750.520g of the Michigan Compiled Laws~~ 1931 PA 328, MCL 750.135
13 TO 750.145C AND 750.520B TO 750.520G, when a violation of these
14 sections has occurred.

15 (8) ~~Schools and other institutions~~ A SCHOOL OR OTHER
16 INSTITUTION shall cooperate with the department during an inves-
17 tigation of a report of child abuse or neglect. Cooperation
18 includes allowing access to the child without parental consent if
19 access is DETERMINED BY THE DEPARTMENT TO BE necessary to com-
20 plete the investigation or to prevent abuse or neglect of the
21 child. However, the person responsible for the child's health or
22 welfare shall be notified of the department's contact with the
23 child at the time or as soon afterward as the person can be
24 reached and no child shall be subjected to a search at a school
25 which requires the child to remove his or her clothing to expose
26 his buttocks or genitalia or her breasts, buttocks or genitalia
27 unless the department has obtained an order from a court of

1 competent jurisdiction permitting such a search. If the access
2 occurs within a hospital, the investigation shall be conducted so
3 as not to interfere with the medical treatment of the child or
4 other patients.

5 (9) AFTER AN INVESTIGATION IS COMPLETED, THE DEPARTMENT
6 SHALL MAKE A DETERMINATION OF WHETHER THE CHILD ABUSE OR NEGLECT
7 IS "SUBSTANTIATED", "SUBSTANTIATED BUT WITH THE PERPETRATOR
8 UNKNOWN", OR "UNSUBSTANTIATED". THE DEPARTMENT SHALL MAKE A
9 DETERMINATION OF "SUBSTANTIATED BUT WITH THE PERPETRATOR UNKNOWN"
10 IF IT DETERMINES THAT CHILD ABUSE OR NEGLECT OCCURRED BUT IS
11 UNABLE TO DETERMINE THE IDENTITY OF THE PERPETRATOR.

12 (10) ~~-(9)-~~ Upon completion of the investigation by the local
13 law enforcement agency or the department, the law enforcement
14 agency or department may inform the person who made the report as
15 to the disposition of the report.