

HOUSE BILL No. 6210

September 15, 2004, Introduced by Reps. Sheen, Taub, Shaffer, Casperson, Milosch, Tabor, Stahl, Garfield, Drolet, Hummel, Voorhees, Hoogendyk, DeRoche, Bradstreet, Stakoe and Mortimer and referred to the Committee on Family and Children Services.

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

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
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

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

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

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

7 (b) The child is the victim of suspected sexual abuse or
8 sexual exploitation.

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

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

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

22 (4) Law enforcement officials shall cooperate with the
23 department in conducting investigations under subsections (1) and
24 (3) and shall comply with sections 5 and 7. The department and
25 law enforcement officials shall conduct investigations in
26 compliance with the protocols adopted and implemented as required
27 by subsection (6).

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

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

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

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

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

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

20 (b) After contact with the child, the department investigator
21 shall meet with the designated school staff person and the child
22 about the response the department will take as a result of
23 contact with the child. The department may also meet with the
24 designated school staff person without the child present and
25 share additional information the investigator determines may be
26 shared subject to the confidentiality provisions of this act.

27 (c) Lack of cooperation by the school does not relieve or

1 prevent the department from proceeding with its responsibilities
2 under this act.

3 (10) A child shall not be subjected to a search at a school
4 that requires the child to remove his or her clothing to expose
5 his buttocks or genitalia or her breasts, buttocks, or genitalia
6 unless the department has obtained an order from a court of
7 competent jurisdiction permitting such a search. If the access
8 occurs within a hospital, the investigation shall be conducted so
9 as not to interfere with the medical treatment of the child or
10 other patients.

11 (11) The department shall enter each report made under this
12 act that is the subject of a field investigation into the CPSI
13 system. The department shall maintain a report entered on the
14 CPSI system as required by this subsection until the child about
15 whom the investigation is made is 18 years old or until 10 years
16 after the investigation is commenced, whichever is later, or, if
17 the case is classified as a central registry case, until the
18 department receives reliable information that the perpetrator of
19 the abuse or neglect is dead. Unless made public as specified
20 information released under section 7d, a report that is
21 maintained on the CPSI system is confidential and is not subject
22 to the disclosure requirements of the freedom of information act,
23 1976 PA 442, MCL 15.231 to 15.246.

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

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

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

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

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

15 (c) Notification that the information being conveyed is
16 confidential.

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

20 (16) Unless section 5 of chapter XII of the probate code of
21 1939, 1939 PA 288, MCL 712.5, requires a physician to report to
22 the department, the surrender of a newborn in compliance with
23 chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1
24 to 712.20, is not reasonable cause to suspect child abuse or
25 neglect and is not subject to the section 3 reporting
26 requirement. This subsection does not apply to circumstances
27 that arise on or after the date that chapter XII of the probate

1 code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is repealed.
2 This subsection applies to a newborn whose birth is described in
3 the born alive infant protection act and who is considered to be
4 a newborn surrendered under the safe delivery of newborns law as
5 provided in section 3 of chapter XII of the probate code of 1939,
6 1939 PA 288, MCL 712.3.

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