

HOUSE BILL No. 6653

November 13, 2008, Introduced by Rep. Meisner and referred to the Committee on Families and Children's Services.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 136b (MCL 750.136b), as amended by 1999 PA 273.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 136b. (1) As used in this section:

2 (a) "Child" means a person who is less than 18 years of age
3 and is not emancipated by operation of law as provided in section 4
4 of 1968 PA 293, MCL 722.4.

5 (b) "Cruel" means brutal, inhuman, sadistic, or that which
6 torments.

7 (c) "Omission" means a willful failure to provide the food,
8 clothing, or shelter necessary for a child's welfare or the willful
9 abandonment of a child.

10 (d) "Person" means a child's parent or guardian or any other

1 person who cares for, has custody of, or has authority over a child
2 regardless of the length of time that a child is cared for, in the
3 custody of, or subject to the authority of that person.

4 (e) "Physical harm" means any injury to a child's physical
5 condition.

6 (f) "Serious physical harm" means any physical injury to a
7 child that seriously impairs the child's health or physical well-
8 being, including, but not limited to, brain damage, a skull or bone
9 fracture, subdural hemorrhage or hematoma, dislocation, sprain,
10 internal injury, poisoning, burn or scald, or severe cut.

11 (g) "Serious mental harm" means an injury to a child's mental
12 condition or welfare that is not necessarily permanent but results
13 in visibly demonstrable manifestations of a substantial disorder of
14 thought or mood which significantly impairs judgment, behavior,
15 capacity to recognize reality, or ability to cope with the ordinary
16 demands of life.

17 (2) A person is guilty of child abuse in the first degree if
18 ~~the~~ **EITHER OF THE FOLLOWING APPLIES:**

19 **(A) THE** person knowingly or intentionally causes serious
20 physical or serious mental harm to a child.

21 **(B) THE PERSON KNOWINGLY AND INTENTIONALLY COMMITS AN ACT IN**
22 **WANTON AND WILLFUL DISREGARD OF THE LIKELIHOOD THAT THE NATURAL**
23 **TENDENCY OF THE PERSON'S BEHAVIOR IS TO CAUSE SERIOUS PHYSICAL HARM**
24 **OR SERIOUS MENTAL HARM TO A CHILD AND THAT BEHAVIOR CAUSES SERIOUS**
25 **PHYSICAL HARM OR SERIOUS MENTAL HARM TO A CHILD.**

26 (3) Child abuse in the first degree is a felony punishable **AS**
27 **FOLLOWS:**

1 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B), by imprisonment for
2 not more than 15 years.

3 (B) IF THE CHILD DIES AS A RESULT OF THE SERIOUS PHYSICAL
4 HARM, BY IMPRISONMENT FOR LIFE WITHOUT PAROLE ELIGIBILITY.

5 (4) ~~(3)~~—A person is guilty of child abuse in the second degree
6 if any of the following apply:

7 (a) The person's omission causes serious physical harm or
8 serious mental harm to a child or if the person's reckless act
9 causes serious physical harm to a child.

10 (b) The person knowingly or intentionally commits an act
11 likely to cause serious physical or mental harm to a child
12 regardless of whether harm results.

13 (c) The person knowingly or intentionally commits an act that
14 is cruel to a child regardless of whether harm results.

15 (5) ~~(4)~~—Child abuse in the second degree is a felony
16 punishable by imprisonment for not more than 4 years.

17 (6) ~~(5)~~—A person is guilty of child abuse in the third degree
18 if the person knowingly or intentionally causes physical harm to a
19 child. Child abuse in the third degree is a misdemeanor punishable
20 by imprisonment for not more than 2 years.

21 (7) ~~(6)~~—A person is guilty of child abuse in the fourth degree
22 if the person's omission or reckless act causes physical harm to a
23 child. Child abuse in the fourth degree is a misdemeanor punishable
24 by imprisonment for not more than 1 year.

25 (8) ~~(7)~~—This section does not prohibit a parent or guardian,
26 or other person permitted by law or authorized by the parent or
27 guardian, from taking steps to reasonably discipline a child,

1 including the use of reasonable force.