



# HOUSE BILL No. 5697

April 27, 2000, Introduced by Reps. Lockwood, Jacobs, Dennis, Baird, Prusi, Cherry, Price, Schauer, Garza, Clark, Schermesser, Neumann, Rivet, Bogardus, Woodward, Bob Brown, Clarke, Gielegem, DeHart, Scott, Bovin, Callahan, Vaughn, Ruth Johnson, O'Neil, Jamnick, LaForge, Rison and Lemmons and referred to the Committee on Family and Civil Law.

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 1994 PA 177 and section 8 as amended by 2000 PA 45.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 3. (1) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (9), A  
2 physician, coroner, dentist, registered dental hygienist, medical  
3 examiner, nurse, a person licensed to provide emergency medical  
4 care, audiologist, psychologist, marriage and family therapist,  
5 licensed professional counselor, certified social worker, social  
6 worker, social work technician, school administrator, school  
7 counselor or teacher, law enforcement officer, or regulated child  
8 care provider who has reasonable cause to suspect child abuse or  
9 neglect shall make immediately, by telephone or otherwise, an

1 oral report, or cause an oral report to be made, of the suspected  
2 child abuse or neglect to the department. Within 72 hours after  
3 making the oral report, the reporting person shall file a written  
4 report as required in this act. If the reporting person is a  
5 member of the staff of a hospital, agency, or school, the report-  
6 ing person shall notify the person in charge of the hospital,  
7 agency, or school of his or her finding and that the report has  
8 been made, and shall make a copy of the written report available  
9 to the person in charge. One report from a hospital, agency, or  
10 school ~~shall be considered~~ IS adequate to meet the reporting  
11 requirement. A member of the staff of a hospital, agency, or  
12 school shall not be dismissed or otherwise penalized for making a  
13 report required by this act or for cooperating in an  
14 investigation.

15 (2) The written report shall contain the name of the child  
16 and a description of the abuse or neglect. If possible, the  
17 report shall contain the names and addresses of the child's par-  
18 ents, the child's guardian, the persons with whom the child  
19 resides, and the child's age. The report shall contain other  
20 information available to the reporting person ~~which~~ THAT might  
21 establish the cause of the abuse or neglect, and the manner in  
22 which the abuse or neglect occurred.

23 (3) The department shall inform the reporting person of the  
24 required contents of the written report at the time the oral  
25 report is made by the reporting person.

26 (4) The written report required in this section shall be  
27 mailed or otherwise transmitted to the county ~~department of~~

1 ~~social services~~ FAMILY INDEPENDENCE AGENCY of the county in  
2 which the child suspected of being abused or neglected is found.

3 (5) Upon receipt of a written report of suspected child  
4 abuse or neglect, the department may provide copies to the prose-  
5 cuting attorney and the probate court of the counties in which  
6 the child suspected of being abused or neglected resides and is  
7 found.

8 (6) If the report or subsequent investigation indicates a  
9 violation of sections 136b and 145c or sections 520b to 520g of  
10 the Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~  
11 ~~being sections 750.136b, 750.145c and 750.520b to 750.520g of the~~  
12 ~~Michigan Compiled Laws~~ 1931 PA 328, MCL 750.136B, 750.145C, AND  
13 750.520B TO 750.520G, or if the report or subsequent investiga-  
14 tion indicates that the suspected abuse was not committed by a  
15 person responsible for the child's health or welfare, and the  
16 department believes that the report has basis in fact, the  
17 department shall transmit a copy of the written report and the  
18 results of any investigation to the prosecuting attorney of the  
19 counties in which the child resides and is found.

20 (7) If a local law enforcement agency receives a written  
21 report of suspected child abuse or neglect, whether from the  
22 reporting person or the department, the report or subsequent  
23 investigation indicates that the abuse or neglect was committed  
24 by a person responsible for the child's health or welfare, and  
25 the local law enforcement agency believes that the report has  
26 basis in fact, the local law enforcement agency shall provide a  
27 copy of the written report and the results of any investigation

1 to the county ~~department of social services~~ FAMILY INDEPENDENCE  
2 AGENCY of the county in which the abused or neglected child is  
3 found. Nothing in this subsection or subsection (6) shall be  
4 construed to relieve the department of its responsibility to  
5 investigate reports of suspected child abuse or neglect under  
6 this act.

7 (8) For purposes of this act, the pregnancy of a child less  
8 than 12 years of age or the presence of a venereal disease in a  
9 child who is over 1 month of age but less than 12 years of age  
10 shall be reasonable cause to suspect child abuse and neglect have  
11 occurred.

12 (9) A REPORTING PERSON LISTED IN SUBSECTION (1) SHALL NOT  
13 REPORT THE IDENTITY OF OR ANY IDENTIFYING INFORMATION ABOUT AN  
14 INDIVIDUAL WHO LEAVES A NEWBORN WITH A HOSPITAL UNDER SECTION 19D  
15 OF CHAPTER XIIA OF THE PROBATE CODE OF 1939, 1939 PA 288, MCL  
16 712A.19D, UNLESS THE HOSPITAL DETERMINES THAT THE NEWBORN WAS A  
17 VICTIM OF CHILD ABUSE OR CHILD NEGLECT BEFORE THE NEWBORN WAS  
18 LEFT WITH THE HOSPITAL. AS USED IN THIS SUBSECTION, "CHILD  
19 ABUSE" AND "CHILD NEGLECT" DO NOT INCLUDE ANY UNINTENDED INJURY  
20 SUSTAINED BY A NEWBORN DURING THE COURSE OF CHILDBIRTH.

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

1 shall refer the report to the department if the report meets the  
2 requirements of section 3(7) or shall commence an investigation  
3 of the child suspected of being abused or neglected. If the  
4 child suspected of being abused is not in the physical custody of  
5 the parent or legal guardian and informing the parent or legal  
6 guardian would not endanger the child's health or welfare, the  
7 agency or the department shall inform the child's parent or legal  
8 guardian of the investigation as soon as the agency or the  
9 department discovers the identity of the child's parent or legal  
10 guardian.

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

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

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

1 (b) The child is the victim of suspected sexual abuse or  
2 sexual exploitation.

3 (c) Abuse or neglect resulting in severe physical injury to  
4 the child requires medical treatment or hospitalization. For  
5 purposes of this subdivision and section 17, "severe physical  
6 injury" means brain damage, skull or bone fracture, subdural hem-  
7 orrhage or hematoma, dislocation, sprains, internal injuries,  
8 poisoning, burns, scalds, severe cuts, or any other physical  
9 injury that seriously impairs the health or physical well-being  
10 of a child.

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

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

16 (4) Law enforcement officials shall cooperate with the  
17 department in conducting investigations under subsections (1) and  
18 (3) and shall comply with sections 5 and 7. The department and  
19 law enforcement officials shall conduct investigations in compli-  
20 ance with the protocol adopted and implemented as required by  
21 subsection (6).

22 (5) Involvement of law enforcement officials under this sec-  
23 tion does not relieve or prevent the department from proceeding  
24 with its investigation or treatment if there is reasonable cause  
25 to suspect that the child abuse or neglect was committed by a  
26 person responsible for the child's health or welfare.

1           (6) In each county, the prosecuting attorney and the  
2 department shall develop and establish procedures for involving  
3 law enforcement officials as provided in this section. In each  
4 county, the prosecuting attorney and the department shall adopt  
5 and implement a standard child abuse and neglect investigation  
6 and interview protocol using as a model the protocol developed by  
7 the governor's task force on children's justice as published in  
8 DSS Publication 794 (8-93).

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

21           (8) A school or other institution shall cooperate with the  
22 department during an investigation of a report of child abuse or  
23 neglect. Cooperation includes allowing access to the child with-  
24 out parental consent if access is determined by the department to  
25 be necessary to complete the investigation or to prevent abuse or  
26 neglect of the child. However, the department shall notify the  
27 person responsible for the child's health or welfare about the

1 department's contact with the child at the time or as soon  
2 afterward as the person can be reached. The department may delay  
3 the notice if the notice would compromise the safety of the child  
4 or child's siblings or the integrity of the investigation, but  
5 only for the time 1 of those conditions exists.

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

8 (a) Before contact with the child, the department investiga-  
9 tor shall review with the designated school staff person the  
10 department's responsibilities under this act and the investiga-  
11 tion procedure.

12 (b) After contact with the child, the department investiga-  
13 tor shall meet with the designated school staff person and the  
14 child about the response the department will take as a result of  
15 contact with the child. The department may also meet with the  
16 designated school staff person without the child present and  
17 share additional information the investigator determines may be  
18 shared subject to the confidentiality provisions of this act.

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

22 (10) A child shall not be subjected to a search at a school  
23 that requires the child to remove his or her clothing to expose  
24 his buttocks or genitalia or her breasts, buttocks, or genitalia  
25 unless the department has obtained an order from a court of com-  
26 petent jurisdiction permitting such a search. If the access  
27 occurs within a hospital, the investigation shall be conducted so



1 as not to interfere with the medical treatment of the child or  
2 other patients.

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

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

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

25       (14) If the person who made the report is mandated to report  
26 under section 3, upon completion of the investigation by the  
27 department, the department shall inform the person in writing as

1 to the disposition of the case and shall include in the  
2 information at least all of the following:

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

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

7 (c) Notification that the information being conveyed is  
8 confidential.

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

12 (16) IN CONDUCTING AN INVESTIGATION UNDER THIS SECTION, THE  
13 DEPARTMENT, A PROSECUTING ATTORNEY, OR A LAW ENFORCEMENT AGENCY  
14 SHALL NOT ATTEMPT TO DETERMINE THE IDENTITY OF AN INDIVIDUAL WHO  
15 LEAVES A NEWBORN INSIDE THE PREMISES OF A HOSPITAL IN COMPLIANCE  
16 WITH THE REQUIREMENTS FOR IMMUNITY THAT ARE IN SECTION 135 OF THE  
17 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.135, UNLESS THE HOSPI-  
18 TAL DETERMINES THAT THE NEWBORN WAS A VICTIM OF CHILD ABUSE OR  
19 CHILD NEGLECT BEFORE THE NEWBORN WAS LEFT WITH THE HOSPITAL. AS  
20 USED IN THIS SUBSECTION, "CHILD ABUSE" AND "CHILD NEGLECT" DO NOT  
21 INCLUDE ANY UNINTENDED INJURY SUSTAINED BY A NEWBORN DURING THE  
22 COURSE OF CHILDBIRTH.

23 Enacting section 1. This amendatory act does not take  
24 effect unless all of the following bills of the 90th Legislature  
25 are enacted into law:

26 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 5698  
27 (request no. 05930'00\*).

1 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 5699  
2 (request no. 06082'00 a\*).