

HOUSE BILL No. 6411

September 5, 2006, Introduced by Reps. Elsenheimer, Hildenbrand, Gosselin, Drolet and Garfield and referred to the Committee on Government Operations.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 411 (MCL 750.411), as amended by 2000 PA 339.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 411. (1) A person, firm, or corporation conducting a
2 hospital or pharmacy in this state, the person managing or in
3 charge of a hospital or pharmacy, or the person in charge of a ward
4 or part of a hospital to which 1 or more persons come or are
5 brought suffering from a wound or other injury inflicted by means
6 of a knife, gun, pistol, or other deadly weapon, or by other means
7 of violence, **OR BY FIREWORKS OR PYROTECHNICS**, has a duty to report
8 that fact immediately, both by telephone and in writing, to the
9 chief of police or other head of the police force of the village or

1 city in which the hospital or pharmacy is located, or to the county
2 sheriff if the hospital or pharmacy is located outside the
3 incorporated limits of a village or city. The report shall state
4 the name and residence of the person, if known, his or her
5 whereabouts, and the cause, character, and extent of the injuries
6 and may state the identification of the perpetrator, if known.

7 (2) A physician or surgeon who has under his or her charge or
8 care a person suffering from a wound or injury inflicted in the
9 manner described in subsection (1) has a duty to report that fact
10 in the same manner and to the same officer as required by
11 subsection (1).

12 (3) A person, firm, or corporation that violates this section
13 is guilty of a misdemeanor.

14 (4) To the extent not protected by the immunity conferred by
15 1964 PA 170, MCL 691.1401 to ~~691.1415~~ **691.1419**, a person who
16 makes a report in good faith under subsection (1) or (2) or who
17 cooperates in good faith in an investigation, civil proceeding, or
18 criminal proceeding conducted as a result of such a report is
19 immune from civil or criminal liability that would otherwise be
20 incurred by making the report or cooperating in the investigation
21 or civil or criminal proceeding. A person who makes a report under
22 subsection (1) or (2) or who cooperates in an investigation, civil
23 proceeding, or criminal proceeding conducted as a result of such a
24 report is presumed to have acted in good faith. The presumption
25 created by this subsection may be rebutted only by clear and
26 convincing evidence.

27 (5) The immunity from civil and criminal liability granted

1 under subsection (4) extends only to the actions described in
2 subsection (4) and does not extend to another act or omission that
3 is negligent or that amounts to professional malpractice, or both,
4 and that causes personal injury or death.

5 (6) The physician-patient privilege created under section 2157
6 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2157, a
7 health professional-patient privilege created under article 15 of
8 the public health code, 1978 PA 368, MCL 333.16101 to 333.18838,
9 and any other health professional-patient privilege created or
10 recognized by law do not apply to a report made under subsection
11 (1) or (2), are not valid reasons for a failure to comply with
12 subsection (1) or (2), and are not a defense to a misdemeanor
13 charge filed under this section.

14 Enacting section 1. This amendatory act does not take effect
15 unless Senate Bill No.____ or House Bill No. 6410(request no.
16 07010'06) of the 93rd Legislature is enacted into law.