

SENATE BILL No. 1050

December 18, 2009, Introduced by Senator WHITMER and referred to the Committee on Judiciary.

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending section 8 (MCL 722.628), as amended by 2008 PA 300.

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 and the local law enforcement agency if the
4 report meets the requirements of subsection (3)(a), (b), or (c) or
5 section 3(6) or (9) or shall commence an investigation of the child
6 suspected of being abused or neglected. Within 24 hours after
7 receiving a report whether from the reporting person or from the
8 department under subsection (3)(a), (b), or (c) or section 3(6) or
9 (9), the local law enforcement agency shall refer the report to the

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

12 (2) In the course of its investigation, the department shall
13 determine if the child is abused or neglected. The department shall
14 cooperate with law enforcement officials, courts of competent
15 jurisdiction, and appropriate state agencies providing human
16 services in relation to preventing, identifying, and treating child
17 abuse and neglect; shall provide, enlist, and coordinate the
18 necessary services, directly or through the purchase of services
19 from other agencies and professions; and shall take necessary
20 action to prevent further abuses, to safeguard and enhance the
21 child's welfare, and to preserve family life where possible. In the
22 course of an investigation, at the time that a department
23 investigator contacts an individual about whom a report has been
24 made under this act or contacts an individual responsible for the
25 health or welfare of a child about whom a report has been made
26 under this act, the department investigator shall advise that
27 individual of the department investigator's name, whom the

1 department investigator represents, and the specific complaints or
2 allegations made against the individual. The department shall
3 ensure that its policies, procedures, and administrative rules
4 ensure compliance with the provisions of this act.

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

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

11 (b) The child is the victim of suspected sexual abuse or
12 sexual exploitation.

13 (c) Abuse or neglect resulting in severe physical injury to
14 the child. For purposes of this subdivision and section 17, "severe
15 physical injury" means an injury to the child that requires medical
16 treatment or hospitalization and that seriously impairs the child's
17 health or physical well-being.

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

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

23 (f) The child has been exposed to or had contact with
24 methamphetamine production.

25 (4) Law enforcement officials shall cooperate with the
26 department in conducting investigations under subsections (1) and
27 (3) and shall comply with sections 5 and 7. The department and law

1 enforcement officials shall conduct investigations in compliance
2 with the protocols adopted and implemented as required by
3 subsection (6).

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

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

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

1 county in which the agency, institution, or facility is located.

2 (8) A school or other institution shall cooperate with the
3 department during an investigation of a report of child abuse or
4 neglect. Cooperation includes allowing access to the child without
5 parental consent if access is determined by the department to be
6 necessary to complete the investigation or to prevent abuse or
7 neglect of the child. The department shall notify the person
8 responsible for the child's health or welfare about the
9 department's contact with the child at the time or as soon
10 afterward as the person can be reached. The department may delay
11 the notice if the notice would compromise the safety of the child
12 or child's siblings or the integrity of the investigation, but only
13 for the time 1 of those conditions 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 investigator
17 shall review with the designated school staff person the
18 department's responsibilities under this act and the investigation
19 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 contact
23 with the child. The department may also meet with the designated
24 school staff person without the child present and share additional
25 information the investigator determines may be shared subject to
26 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 his
5 buttocks or genitalia or her breasts, buttocks, or genitalia unless
6 the department has obtained an order from a court of competent
7 jurisdiction permitting such a search. If the access occurs within
8 a hospital, the investigation shall be conducted so as not to
9 interfere with the medical treatment of the child or other
10 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~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE**
14 department shall maintain a report entered on the CPSI system as
15 required by this subsection until the child about whom the
16 investigation is made is 18 years old or until 10 years after the
17 investigation is commenced, whichever is later, or, if the case is
18 classified as a central registry case, until the department
19 receives reliable information that the perpetrator of the abuse or
20 neglect is dead. **IF THE REPORT INVOLVES THE DEATH OF A CHILD OR A**
21 **VIOLATION OF SECTION 85, 520B, 520C, 520D, 520E, OR 520G OF THE**
22 **MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.85, 750.520B, 750.520C,**
23 **750.520D, 750.520E, AND 750.520G, IN WHICH THE VICTIM WAS A CHILD,**
24 **THE DEPARTMENT SHALL MAINTAIN THE REPORT FOR NOT LESS THAN 50 YEARS**
25 **AFTER THE INVESTIGATION IS COMMENCED.** Unless made public as
26 specified information released under section 7d, a report that is
27 maintained on the CPSI system is confidential and is not subject to

1 the disclosure requirements of the freedom of information act, 1976
2 PA 442, MCL 15.231 to 15.246.

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

7 (13) Except as provided in subsection (14), upon completion of
8 the investigation by the local law enforcement agency or the
9 department, the law enforcement agency or department may inform the
10 person who made the report as to the disposition of the report.

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

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

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

20 (c) Notification that the information being conveyed is
21 confidential.

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

25 (16) Unless section 5 of chapter XII of the probate code of
26 1939, 1939 PA 288, MCL 712.5, requires a physician to report to the
27 department, the surrender of a newborn in compliance with chapter

1 XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20,
2 is not reasonable cause to suspect child abuse or neglect and is
3 not subject to the section 3 reporting requirement. This subsection
4 does not apply to circumstances that arise on or after the date
5 that chapter XII of the probate code of 1939, 1939 PA 288, MCL
6 712.1 to 712.20, is repealed. This subsection applies to a newborn
7 whose birth is described in the born alive infant protection act,
8 2002 PA 687, MCL 333.1071 to 333.1073, and who is considered to be
9 a newborn surrendered under the safe delivery of newborns law as
10 provided in section 3 of chapter XII of the probate code of 1939,
11 1939 PA 288, MCL 712.3.

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

17 (18) The department shall determine whether there is an open
18 friend of the court case regarding a child who is suspected of
19 being abused or neglected if a child protective services
20 investigation of child abuse and neglect allegations result in any
21 of the following dispositions:

22 (a) A finding that a preponderance of evidence indicates that
23 there has been child abuse and neglect.

24 (b) Emergency removal of the child for child abuse and neglect
25 before the investigation is completed.

26 (c) The family court takes jurisdiction on a petition and a
27 child is maintained in his or her own home under the supervision of

1 the department.

2 (d) If 1 or more children residing in the home are removed and
3 1 or more children remain in the home.

4 (e) Any other circumstances that the department determines are
5 applicable and related to child safety.

6 (19) If the department determines that there is an open friend
7 of the court case and the provisions of subsection (18) apply, the
8 department shall notify the office of the friend of the court in
9 the county in which the friend of the court case is open that there
10 is an investigation being conducted under this act regarding that
11 child and shall also report to the local friend of the court office
12 when there is a change in that child's placement.

13 (20) Child protective services may report to the local friend
14 of the court office any situation in which a parent, more than 3
15 times within 1 year or on 5 cumulative reports over several years,
16 made unfounded reports to child protective services regarding
17 alleged child abuse or neglect of his or her child.

18 (21) If the department determines that there is an open friend
19 of the court case, the department shall provide noncustodial
20 parents of a child who is suspected of being abused or neglected
21 with the form developed by the department that has information on
22 how to change a custody or parenting time court order.