

**STATE OF MICHIGAN  
96TH LEGISLATURE  
REGULAR SESSION OF 2012**

**Introduced by Reps. Lori, Ananich, Barnett, Bauer, Bledsoe, Brown, Brunner, Byrum, Constan, Cotter, Crawford, Damrow, Darany, Denby, Dillon, Durhal, Farrington, Foster, Gilbert, Graves, Greimel, Haines, Haugh, Haveman, Heise, Hooker, Horn, Hovey-Wright, Hughes, Huuki, Irwin, Jackson, Jenkins, Knollenberg, Kurtz, LaFontaine, LeBlanc, Liss, Lyons, MacMaster, McCann, Meadows, O'Brien, Oakes, Olson, Opsommer, Pettalia, Poleski, Potvin, Price, Rendon, Rutledge, Santana, Wayne Schmidt, Segal, Shaughnessy, Slavens, Smiley, Somerville, Stamas, Stapleton, Switalski, Talabi, Tlaib and Tyler**

## **ENROLLED HOUSE BILL No. 5562**

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at criminal trials; to provide for liability for damages; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 136b (MCL 750.136b), as amended by 2008 PA 577, and by adding section 136d.

*The People of the State of Michigan enact:*

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

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

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

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

(d) "Person" means a child's parent or guardian or any other person who cares for, has custody of, or has authority over a child regardless of the length of time that a child is cared for, in the custody of, or subject to the authority of that person.

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

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

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

(2) A person is guilty of child abuse in the first degree if the person knowingly or intentionally causes serious physical or serious mental harm to a child. Child abuse in the first degree is a felony punishable by imprisonment for life or any term of years.

(3) A person is guilty of child abuse in the second degree if any of the following apply:

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

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

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

(4) Child abuse in the second degree is a felony punishable by imprisonment as follows:

(a) For a first offense, not more than 10 years.

(b) For a second or subsequent offense, not more than 20 years.

(5) A person is guilty of child abuse in the third degree if any of the following apply:

(a) The person knowingly or intentionally causes physical harm to a child.

(b) The person knowingly or intentionally commits an act that under the circumstances poses an unreasonable risk of harm or injury to a child, and the act results in physical harm to a child.

(6) Child abuse in the third degree is a felony punishable by imprisonment for not more than 2 years.

(7) A person is guilty of child abuse in the fourth degree if any of the following apply:

(a) The person's omission or reckless act causes physical harm to a child.

(b) The person knowingly or intentionally commits an act that under the circumstances poses an unreasonable risk of harm or injury to a child, regardless of whether physical harm results.

(8) Child abuse in the fourth degree is a misdemeanor punishable by imprisonment for not more than 1 year.

(9) This section does not prohibit a parent or guardian, or other person permitted by law or authorized by the parent or guardian, from taking steps to reasonably discipline a child, including the use of reasonable force.

(10) It is an affirmative defense to a prosecution under this section that the defendant's conduct involving the child was a reasonable response to an act of domestic violence in light of all the facts and circumstances known to the defendant at that time. The defendant has the burden of establishing the affirmative defense by a preponderance of the evidence. As used in this subsection, "domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

Sec. 136d. (1) A person who violates section 136b in the presence of a child other than the child who is the victim of the violation is guilty of a felony punishable as follows:

(a) If the person violates section 136b(2) in the presence of another child, by imprisonment for life or any term of years.

(b) Except as provided in subdivision (c), if the person violates section 136b(4) in the presence of another child, by imprisonment for not more than 10 years.

(c) If the person violates section 136b(4) in the presence of another child on a second or subsequent occasion, by imprisonment for not more than 20 years.

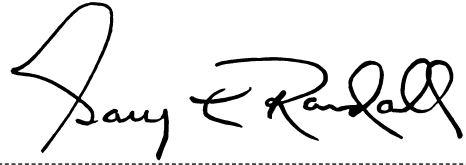
(d) If the person violates section 136b(6) in the presence of another child, by imprisonment for not more than 2 years.

(2) A charge and conviction under this section do not prohibit a person from being charged with, convicted of, or sentenced for any other violation of law arising out of the same transaction as the violation of this section.

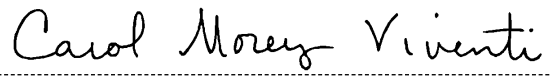
Enacting section 1. This amendatory act shall be known and may be cited as "Dominick's Law".

Enacting section 2. This amendatory act takes effect July 1, 2012.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor