

HOUSE BILL NO. 6283

September 29, 2020, Introduced by Reps. Chirkun, Sabo, Kuppa, Cherry, Tyrone Carter and Yaroach and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending section 8 (MCL 722.628), as amended by 2016 PA 491.

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~~**must** refer the report to the
3 prosecuting attorney, ~~and~~ the local law enforcement agency, **and the**
4 **appropriate military family advocacy program, if applicable,** if the
5 report meets the requirements of subsection (3) (a), (b), or (c) or



1 section 3(6) or (9) or ~~shall~~**must** commence an investigation of the
2 child suspected of being abused or neglected. Within 24 hours after
3 receiving a report whether from the reporting person or from the
4 department under subsection (3)(a), (b), or (c) or section 3(6) or
5 (9), the local law enforcement agency ~~shall~~**must** refer the report
6 to the department if the report meets the requirements of section
7 3(7) or ~~shall~~**must** commence an investigation of the child suspected
8 of being abused, ~~or~~ neglected, or exposed to or ~~who~~ has had contact
9 with methamphetamine production. If the child suspected of being
10 abused, **neglected**, or exposed to or ~~who~~ has had contact with
11 methamphetamine production is not in the physical custody of the
12 parent or legal guardian and informing the parent or legal guardian
13 would not endanger the child's health or welfare, the local law
14 enforcement agency or the department ~~shall~~**must** inform the child's
15 parent or legal guardian of the investigation as soon as the local
16 law enforcement agency or the department discovers the identity of
17 the child's parent or legal guardian.

18 (2) In the course of its investigation, the department ~~shall~~
19 **must** determine if the child is abused or neglected. The department
20 ~~shall~~**must** cooperate with law enforcement officials, courts of
21 competent jurisdiction, and appropriate state agencies providing
22 human services in relation to preventing, identifying, and treating
23 child abuse ~~and~~**or** child neglect; ~~shall~~**must** provide, enlist, and
24 coordinate the necessary services, directly or through ~~the purchase~~
25 ~~of~~**purchasing** services from other agencies and professions; and
26 ~~shall~~**must** take necessary action to prevent further ~~abuses~~, **child**
27 **abuse or child neglect**, to safeguard and enhance the child's
28 welfare, and to preserve family life where possible. In the course
29 of an investigation, at the time that a department investigator



1 contacts an individual about whom a report has been made under this
2 act or contacts an individual responsible for the health or welfare
3 of a child about whom a report has been made under this act, the
4 department investigator ~~shall~~**must** advise that individual of the
5 department investigator's name, whom the department investigator
6 represents, and the specific complaints or allegations made against
7 the individual. The department ~~shall~~**must** ensure that its policies,
8 procedures, and administrative rules ensure compliance with the
9 provisions of this act.

10 (3) In conducting its investigation, the department ~~shall~~**must**
11 seek the assistance of and cooperate with law enforcement
12 officials, **including military law enforcement, if applicable,**
13 within 24 hours after becoming aware that 1 or more of the
14 following conditions exist:

15 (a) Child abuse or child neglect is the suspected cause of a
16 child's death.

17 (b) The child is the victim of suspected sexual abuse or
18 sexual exploitation.

19 (c) Child abuse or child neglect resulting in severe physical
20 injury to the child. For purposes of this subdivision and section
21 17, "severe physical injury" means an injury to the child that
22 requires medical treatment or hospitalization and that seriously
23 impairs the child's health or physical well-being.

24 (d) Law enforcement intervention is necessary ~~for the~~
25 ~~protection of~~ **to protect** the child, a department employee, or
26 another person involved in the investigation.

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

29 (f) The child has been exposed to or had contact with



1 methamphetamine production.

2 (4) Law enforcement officials ~~shall~~**must** cooperate with the
3 department in conducting ~~investigations~~**an investigation** under
4 subsections (1) and (3) and ~~shall~~**must** comply with sections 5 and
5 7. The department and law enforcement officials shall conduct
6 investigations in compliance with the protocols adopted and
7 implemented as required by subsection (6).

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

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

24 (7) If there is reasonable cause to suspect that a child in
25 the care of or under the control of a public or private agency,
26 institution, or facility is an abused or neglected child, the
27 agency, institution, or facility ~~shall~~**must** be investigated by an
28 agency administratively independent of the agency, institution, or
29 facility being investigated. If the investigation produces evidence



1 of a violation of section 145c or sections 520b, ~~to~~ **520c, 520d,**
 2 **520e, and** 520g of the Michigan penal code, 1931 PA 328, MCL
 3 750.145c and 750.520b, ~~to~~ **750.520c, 750.520d, 750.520e, and**
 4 750.520g, the investigating agency shall transmit a copy of the
 5 results of the investigation to the prosecuting attorney of the
 6 county in which the agency, institution, or facility is located.

7 (8) A school or other institution ~~shall~~ **must** cooperate with
 8 the department during an investigation of a report of child abuse
 9 or child neglect. Cooperation includes allowing access to the child
 10 without parental consent if access is determined by the department
 11 to be necessary to complete the investigation or to prevent child
 12 abuse or child neglect of the child. The department ~~shall~~ **must**
 13 notify the person responsible for the child's health or welfare
 14 about the department's contact with the child at the time or as
 15 soon afterward as the person can be reached. The department may
 16 delay the notice if the notice would compromise the safety of the
 17 child or child's siblings or the integrity of the investigation,
 18 but only for the time 1 of those conditions exists.

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

21 (a) Before contact with the child, the department investigator
 22 ~~shall~~ **must** review with the designated school staff person the
 23 department's responsibilities under this act and the investigation
 24 procedure.

25 (b) After contact with the child, the department investigator
 26 ~~shall~~ **must** meet with the designated school staff person and the
 27 child about the response the department will take as a result of
 28 contact with the child. The department may also meet with the
 29 designated school staff person without the child present and share



1 additional information the **department** investigator determines may
2 be shared subject to the confidentiality provisions of this act.

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

6 (10) A child ~~shall~~**must** not be subjected to a search at a
7 school that requires the child to remove his or her clothing to
8 expose his buttocks or genitalia or her breasts, buttocks, or
9 genitalia unless the department has obtained an order from a court
10 of competent jurisdiction permitting ~~such a~~**that** search. If ~~the~~
11 access occurs within a hospital, the investigation ~~shall~~**must** be
12 conducted so as not to interfere with the medical treatment of the
13 child or other patients.

14 (11) The department shall enter each report made under this
15 act that is the subject of a field investigation into the CPSI
16 system. The department shall maintain a report entered on the CPSI
17 system as required by this subsection until the child about whom
18 the investigation is made is 18 years old or until 10 years after
19 the investigation is commenced, whichever is later, or, if the case
20 is classified as a central registry case, until the department
21 receives reliable information that the perpetrator of the child
22 abuse or child neglect is dead. Unless made public as specified
23 information released under section 7d, a report that is maintained
24 on the CPSI system is confidential and is not subject to the
25 disclosure requirements of the freedom of information act, 1976 PA
26 442, MCL 15.231 to 15.246.

27 (12) After completing a field investigation and based on its
28 results, the department shall determine in which single category,
29 prescribed by section 8d, to classify the allegation of child abuse



1 or child neglect.

2 (13) Except as provided in subsection (14), upon completion of
3 the investigation by the local law enforcement agency or the
4 department, the law enforcement agency or department may inform the
5 person who made the report as to the disposition of the report.

6 (14) If the person who made the report is mandated to report
7 under section 3, upon completion of the investigation by the
8 department, the department shall inform the person in writing as to
9 the **case's** disposition ~~of the case~~ and shall include in the
10 information at least all of the following:

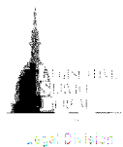
11 (a) ~~What~~ **The** determination the department made under
12 subsection (12) and the rationale for that ~~decision.~~ **determination.**

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

15 (c) Notification that the information being conveyed is
16 confidential.

17 (15) Information sent under subsection (14) ~~shall~~ **must** not
18 include personally identifying information for a person named in a
19 report or record made under this act.

20 (16) Unless section 5 of **the safe delivery of newborns law,**
21 chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.5,
22 requires a physician to report to the department, ~~the surrender of~~
23 **surrendering** a newborn in compliance with **the safe delivery of**
24 **newborns law,** chapter XII of the probate code of 1939, 1939 PA 288,
25 MCL 712.1 to 712.20, is not reasonable cause to suspect child abuse
26 or child neglect and is not subject to the section 3 reporting
27 requirement. This subsection does not apply to circumstances that
28 arise on or after the date that **the safe delivery of newborns law,**
29 chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to



1 712.20, is repealed. This subsection applies to a newborn whose
2 birth is described in the born alive infant protection act, 2002 PA
3 687, MCL 333.1071 to 333.1073, and who is considered to be a
4 newborn surrendered under **section 3 of** the safe delivery of
5 newborns law, ~~as provided in section 3 of~~ chapter XII of the
6 probate code of 1939, 1939 PA 288, MCL 712.3.

7 (17) All department employees involved in investigating child
8 abuse or child neglect cases ~~shall~~**must** be trained in the legal
9 duties to protect the state and federal constitutional and
10 statutory rights of children and families from the initial contact
11 of an investigation through the time services are provided.

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

17 (a) A finding that a preponderance of evidence indicates that
18 there has been child abuse or child neglect.

19 (b) Emergency removal of the child for child abuse or child
20 neglect before the investigation is completed.

21 (c) The family court takes jurisdiction on a petition and a
22 child is maintained in his or her own home under the supervision of
23 the department.

24 (d) If 1 or more children residing in the home are removed and
25 1 or more children remain in the home.

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

28 (19) If the department determines that there is an open friend
29 of the court case and the provisions of subsection (18) apply, the



1 department ~~shall~~**must** notify the office of the friend of the court
2 in the county in which the friend of the court case is open that
3 there is an investigation being conducted under this act regarding
4 that child and ~~shall~~**must** also report to the local friend of the
5 court office when there is a change in that child's placement.

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

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

16 (22) **In the course of its investigation, the department must**
17 **make efforts, as soon as practicable, to determine the military**
18 **status of a parent or guardian whose child is suspected of being**
19 **abused or neglected. If the department determines that a parent or**
20 **guardian is in the military, the department must notify a United**
21 **States Department of Defense Family Advocacy Program of the**
22 **allegation of child abuse or child neglect that is under**
23 **investigation and relates to a military parent or guardian.**

