

# HOUSE BILL No. 4662

May 11, 1999, Introduced by Reps. Hager, Gilbert, Kowall, LaSata, DeHart, Caul, Faunce, Woodward, Ehardt, Bovin, Patterson, Hart, Howell, Allen, Shulman and Raczkowski and referred to the Committee on Family and Children Services.

A bill to amend 1975 PA 238, entitled  
"Child protection law,"  
by amending section 8 (MCL 722.628), as amended by 1998 PA 484.

## **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 if the report meets the requirements of  
4 section 3(6) or shall commence an investigation of the child sus-  
5 pected of being abused or neglected. Within 24 hours after  
6 receiving a report whether from the reporting person or from the  
7 department under section 3(6), the local law enforcement agency  
8 shall refer the report to the department if the report meets the  
9 requirements of section 3(7) or shall commence an investigation  
10 of the child suspected of being abused or neglected. If the  
11 child suspected of being abused is not in the physical custody of

1 the parent or legal guardian and informing the parent or legal  
2 guardian would not endanger the child's health or welfare, the  
3 agency or the department shall inform the child's parent or legal  
4 guardian of the investigation as soon as the agency or the  
5 department discovers the identity of the child's parent or legal  
6 guardian.

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

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

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

23       (b) The child is the victim of suspected sexual abuse or  
24 sexual exploitation.

25       (c) Abuse or neglect resulting in severe physical injury to  
26 the child requires medical treatment or hospitalization. For  
27 purposes of this subdivision and section 17, "severe physical

1 injury" means brain damage, skull or bone fracture, subdural  
2 hemorrhage or hematoma, dislocation, sprains, internal injuries,  
3 poisoning, burns, scalds, severe cuts, or any other physical  
4 injury that seriously impairs the health or physical well-being  
5 of a child.

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

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

11 (4) Law enforcement officials shall cooperate with the  
12 department in conducting investigations under subsections (1) and  
13 (3) and shall comply with sections 5 and 7. The department and  
14 law enforcement officials shall conduct investigations in compli-  
15 ance with the protocol adopted and implemented as required by  
16 subsection (6).

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

22 (6) In each county, the prosecuting attorney and the depart-  
23 ment shall develop and establish procedures for involving law  
24 enforcement officials as provided in this section. In each  
25 county, the prosecuting attorney and the department shall adopt  
26 and implement a standard child abuse and neglect investigation  
27 and interview protocol using as a model the protocol developed by

1 the governor's task force on children's justice as published in  
2 DSS Publication 794 (8-93).

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

15       (8) A school or other institution shall cooperate with the  
16 department AND LAW ENFORCEMENT AGENCIES during an investigation  
17 of a report of child abuse or neglect. Cooperation includes  
18 allowing access to the child without parental consent if access  
19 is determined by the department to be necessary to complete the  
20 investigation or to prevent abuse or neglect of the child.  
21 However, the department OR A LAW ENFORCEMENT AGENCY shall notify  
22 the person responsible for the child's health or welfare about  
23 the department's OR LAW ENFORCEMENT AGENCY'S contact with the  
24 child at the time or as soon afterward as the person can be  
25 reached. The department OR A LAW ENFORCEMENT AGENCY may delay  
26 the notice if the notice would compromise the safety of the child

1 or child's siblings or the integrity of the investigation, but  
2 only for the time 1 of those conditions exists.

3 (9) If the department OR A LAW ENFORCEMENT AGENCY has con-  
4 tact with a child in a school, all of the following apply:

5 (a) Before contact with the child, the department investiga-  
6 tor OR LAW ENFORCEMENT OFFICIAL shall review with the designated  
7 school staff person the department's OR LAW ENFORCEMENT AGENCY'S  
8 responsibilities under this act and the investigation procedure.

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

18 (c) Lack of cooperation by the school does not relieve or  
19 prevent the department OR A LAW ENFORCEMENT AGENCY from proceed-  
20 ing with its responsibilities under this act.

21 (10) A child shall not be subjected to a search at a school  
22 that requires the child to remove his or her clothing to expose  
23 his buttocks or genitalia or her breasts, buttocks, or genitalia  
24 unless the department OR LAW ENFORCEMENT AGENCY has obtained an  
25 order from a court of competent jurisdiction permitting such a  
26 search. If the access occurs within a hospital, the

1 investigation shall be conducted so as not to interfere with the  
2 medical treatment of the child or 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. Unless  
9 made public as specified information released under section 7d, a  
10 report that is maintained on the CPSI system is confidential and  
11 is not subject to the disclosure requirements of the freedom of  
12 information act, 1976 PA 442, MCL 15.231 to 15.246. After com-  
13 pleting a field investigation and based on its results, the  
14 department shall determine in which single category, prescribed  
15 by section 8d, to classify the allegation of child abuse or  
16 neglect.

17       (12) Except as provided in (13), upon completion of the  
18 investigation by the local law enforcement agency or the depart-  
19 ment, the law enforcement agency or department may inform the  
20 person who made the report as to the disposition of the report.

21       (13) If the person who made the report is mandated to report  
22 under section 3, upon completion of the investigation by the  
23 department, the department shall inform the person in writing as  
24 to the disposition of the case and shall include in the informa-  
25 tion at least all of the following:

26       (a) What determination the department made under  
27 subsection (11) and the rationale for that decision.

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

3       (c) Notification that the information being conveyed is  
4 confidential.

5       (14) Information sent under subsection (13) shall not  
6 include personally identifying information for a person named in  
7 a report or record made under this act.