

HOUSE BILL No. 5384

November 1, 2001, Introduced by Reps. Schauer, Pestka, Bovin, Neumann, Gielegem, Pappageorge, Toy, Spade, Lipsey, Rivet, Voorhees, Schermesser, Rich Brown, Shackleton, Jacobs, Garza and Murphy and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 136b (MCL 750.136b), as amended by 1999 PA
273.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

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

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

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

19 (2) A person is guilty of child abuse in the first degree if
20 the person knowingly or intentionally causes serious physical or
21 serious mental harm to a child. Child abuse in the first degree
22 is a felony punishable AS FOLLOWS:

23 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B), by imprisonment
24 for not more than 15 years.

25 (B) EXCEPT AS PROVIDED IN SECTION 316, IF THE VIOLATION
26 RESULTS IN THE DEATH OF THE CHILD, BY IMPRISONMENT FOR LIFE OR
27 ANY TERM OF YEARS BUT NOT LESS THAN 15 YEARS.

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

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

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

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

11 (4) Child abuse in the second degree is a felony punishable
12 by imprisonment for not more than 4 years.

13 (5) A person is guilty of child abuse in the third degree if
14 the person knowingly or intentionally causes physical harm to a
15 child. Child abuse in the third degree is a misdemeanor punish-
16 able by imprisonment for not more than 2 years.

17 (6) A person is guilty of child abuse in the fourth degree
18 if the person's omission or reckless act causes physical harm to
19 a child. Child abuse in the fourth degree is a misdemeanor pun-
20 ishable by imprisonment for not more than 1 year.

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