

**SUBSTITUTE FOR  
HOUSE BILL NO. 4468**

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.  
10       (d) "Person" means a child's parent or guardian or any other

1 person who cares for, has custody of, or has authority over a  
2 child regardless of the length of time that a child is cared for,  
3 in the custody of, or subject to the authority of that person.

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

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

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

18 (2) A person is guilty of child abuse in the first degree if  
19 the person knowingly or intentionally causes serious physical or  
20 serious mental harm to a child. Child abuse in the first degree  
21 is a felony punishable by imprisonment for not more than 15  
22 years.

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

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

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

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

6 (d) **The person knowingly or intentionally commits 3 or more**  
7 **acts within a 24-month period that cause physical harm to a**  
8 **child. For purposes of this subdivision, the 3 or more acts need**  
9 **not be committed against the same child.**

10 (4) Child abuse in the second degree is a felony punishable  
11 by imprisonment for not more than ~~4~~ 10 years.

12 (5) A person is guilty of child abuse in the third degree if  
13 ~~the~~ **either of the following applies:**

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

16 (b) **The person knowingly or intentionally commits an act**  
17 **likely to cause physical harm to a child, and the act results in**  
18 **physical harm to a child.**

19 (6) Child abuse in the third degree is a ~~misdemeanor~~ **felony**  
20 punishable by imprisonment for not more than ~~2~~ 4 years.

21 (7) ~~(6)~~ A person is guilty of child abuse in the fourth  
22 degree if ~~the~~ **either of the following applies:**

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

25 (b) **The person knowingly or intentionally commits an act**  
26 **likely to cause physical harm to a child, regardless of whether**  
27 **physical harm results.**

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

3           **(9)** ~~—(7)—~~ This section does not prohibit a parent or  
4 guardian, or other person permitted by law or authorized by the  
5 parent or guardian, from taking steps to reasonably discipline a  
6 child, including the use of reasonable force.

7           Enacting section 1. This amendatory act takes effect 90  
8 days after the date it is enacted into law.