

HOUSE BILL No. 5842

March 8, 2006, Introduced by Reps. Mortimer, Ball, LaJoy, Gosselin, Schuitmaker, Farhat, Baxter, Moore, Stahl, Nitz, David Law, Proos, Vander Veen, Caswell, Newell, Taub, Sheen, Marleau and Casperson and referred to the Committee on Family and Children Services.

A bill to amend 1975 PA 238, entitled "Child protection law," by amending sections 3 and 8 (MCL 722.623 and 722.628), section 3 as amended by 2002 PA 693 and section 8 as amended by 2004 PA 195.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) An individual is required to report under this act
2 as follows:

3 (a) A physician, dentist, physician's assistant, registered
4 dental hygienist, medical examiner, nurse, person licensed to
5 provide emergency medical care, audiologist, psychologist, marriage
6 and family therapist, licensed professional counselor, ~~certified~~
7 ~~social worker, social worker, social work technician~~ **SOCIAL**

1 **WORKER, LICENSED MASTER'S SOCIAL WORKER, LICENSED BACHELOR'S SOCIAL**
2 **WORKER, REGISTERED SOCIAL SERVICE TECHNICIAN, SOCIAL SERVICE**
3 **TECHNICIAN**, school administrator, school counselor or teacher, law
4 enforcement officer, member of the clergy, or regulated child care
5 provider who has reasonable cause to suspect child abuse or neglect
6 shall make immediately, by telephone or otherwise, an oral report,
7 or cause an oral report to be made, of the suspected child abuse or
8 neglect to the department. Within 72 hours after making the oral
9 report, the reporting person shall file a written report as
10 required in this act. If the reporting person is a member of the
11 staff of a hospital, agency, or school, the reporting person shall
12 notify the person in charge of the hospital, agency, or school of
13 his or her finding and that the report has been made, and shall
14 make a copy of the written report available to the person in
15 charge. A notification to the person in charge of a hospital,
16 agency, or school does not relieve the member of the staff of the
17 hospital, agency, or school of the obligation of reporting to the
18 department as required by this section. One report from a hospital,
19 agency, or school ~~shall be considered~~ **IS** adequate to meet the
20 reporting requirement. A member of the staff of a hospital, agency,
21 or school shall not be dismissed or otherwise penalized for making
22 a report required by this act or for cooperating in an
23 investigation.

24 (b) A department employee who is 1 of the following and has
25 reasonable cause to suspect child abuse or neglect shall make a
26 report of suspected child abuse or neglect to the department:

27 (i) Eligibility specialist.

- 1 (ii) Family independence manager.
2 (iii) Family independence specialist.
3 (iv) Social services specialist.
4 (v) Social work specialist.
5 (vi) Social work specialist manager.
6 (vii) Welfare services specialist.

7 (2) The written report shall contain the name of the child and
8 a description of the abuse or neglect. If possible, the report
9 shall contain the names and addresses of the child's parents, the
10 child's guardian, the persons with whom the child resides, and the
11 child's age. The report shall contain other information available
12 to the reporting person that might establish the cause of the abuse
13 or neglect, and the manner in which the abuse or neglect occurred.

14 (3) The department shall inform the reporting person of the
15 required contents of the written report at the time the oral report
16 is made by the reporting person.

17 (4) The written report required in this section shall be
18 mailed or otherwise transmitted to the county ~~family independence~~
19 ~~agency~~ **DEPARTMENT** of the county in which the child suspected of
20 being abused or neglected is found.

21 (5) Upon receipt of a written report of suspected child abuse
22 or neglect, the department may provide copies to the prosecuting
23 attorney and the probate court of the counties in which the child
24 suspected of being abused or neglected resides and is found.

25 (6) If an allegation, written report, or subsequent
26 investigation of suspected child abuse or child neglect indicates a
27 violation of sections 136b and 145c, ~~or~~ sections 520b to 520g of

1 the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, and
2 750.520b to 750.520g, **OR SECTION 7401C OF THE PUBLIC HEALTH CODE,**
3 **1978 PA 368, MCL 333.7401C, INVOLVING METHAMPHETAMINE** has occurred,
4 or if the allegation, written report, or subsequent investigation
5 indicates that the suspected child abuse or child neglect was
6 committed by an individual who is not a person responsible for the
7 child's health or welfare, including, but not limited to, a member
8 of the clergy, a teacher, or a teacher's aide, the department shall
9 transmit a copy of the allegation or written report and the results
10 of any investigation to a law enforcement agency in the county in
11 which the incident occurred. If an allegation, written report, or
12 subsequent investigation indicates that the individual who
13 committed the suspected abuse or neglect is a child care provider
14 and the department believes that the report has basis in fact, the
15 department shall transmit a copy of the written report or the
16 results of the investigation to the child care regulatory agency
17 with authority over the child care provider's child care
18 organization or adult foster care location authorized to care for a
19 child.

20 (7) If a local law enforcement agency receives an allegation
21 or written report of suspected child abuse or child neglect **OR**
22 **DISCOVERS EVIDENCE OF OR RECEIVES A REPORT OF AN INDIVIDUAL CAUSING**
23 **A CHILD TO BE EXPOSED TO OR TO HAVE CONTACT WITH METHAMPHETAMINE**
24 **PRODUCTION,** and the allegation, written report, or subsequent
25 investigation indicates that the child abuse or child neglect **OR**
26 **THE CAUSING OF A CHILD TO BE EXPOSED TO OR TO HAVE CONTACT WITH**
27 **METHAMPHETAMINE PRODUCTION,** was committed by a person responsible

1 for the child's health or welfare, the local law enforcement agency
2 shall refer the allegation or provide a copy of the written report
3 and the results of any investigation to the county ~~family~~
4 ~~independence agency~~ **DEPARTMENT** of the county in which the abused
5 or neglected child is found, as required by subsection (1)(a). If
6 an allegation, written report, or subsequent investigation
7 indicates that the individual who committed the suspected abuse or
8 neglect **OR CAUSED A CHILD TO BE EXPOSED TO OR TO HAVE CONTACT WITH**
9 **METHAMPHETAMINE PRODUCTION**, is a child care provider and the local
10 law enforcement agency believes that the report has basis in fact,
11 the local law enforcement agency shall transmit a copy of the
12 written report or the results of the investigation to the child
13 care regulatory agency with authority over the child care
14 provider's child care organization or adult foster care location
15 authorized to care for a child. Nothing in this subsection or
16 subsection (1) shall be construed to relieve the department of its
17 responsibilities to investigate reports of suspected child abuse or
18 child neglect under this act.

19 (8) For purposes of this act, the pregnancy of a child less
20 than 12 years of age or the presence of a venereal disease in a
21 child who is over 1 month of age but less than 12 years of age is
22 reasonable cause to suspect child abuse and neglect have occurred.

23 (9) **IN CONDUCTING AN INVESTIGATION OF CHILD ABUSE OR CHILD**
24 **NEGLECT, IF THE DEPARTMENT SUSPECTS THAT A CHILD HAS BEEN EXPOSED**
25 **TO OR HAS HAD CONTACT WITH METHAMPHETAMINE PRODUCTION, THE**
26 **DEPARTMENT SHALL IMMEDIATELY CONTACT THE LAW ENFORCEMENT AGENCY IN**
27 **THE COUNTY IN WHICH THE INCIDENT OCCURRED.**

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 (9)** or shall commence an investigation of the child
5 suspected 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) **OR (9)**, the local law enforcement
8 agency shall refer the report to the department if the report meets
9 the requirements of section 3(7) or shall commence an investigation
10 of the child suspected of being abused or neglected **OR SUSPECTED OF**
11 **HAVING BEEN EXPOSED TO OR HAVING BEEN CAUSED TO HAVE CONTACT WITH**
12 **METHAMPHETAMINE PRODUCTION.** If the child suspected of being abused
13 **OR HAVING BEEN EXPOSED TO OR HAVING BEEN CAUSED TO HAVE CONTACT**
14 **WITH METHAMPHETAMINE PRODUCTION** is not in the physical custody of
15 the parent or legal guardian and informing the parent or legal
16 guardian would not endanger the child's health or welfare, the
17 agency or the department shall inform the child's parent or legal
18 guardian of the investigation as soon as the agency or the
19 department discovers the identity of the child's parent or legal
20 guardian.

21 (2) In the course of its investigation, the department shall
22 determine if the child is abused or neglected. The department shall
23 cooperate with law enforcement officials, courts of competent
24 jurisdiction, and appropriate state agencies providing human
25 services in relation to preventing, identifying, and treating child
26 abuse and neglect; shall provide, enlist, and coordinate the
27 necessary services, directly or through the purchase of services

1 from other agencies and professions; and shall take necessary
2 action to prevent further abuses, to safeguard and enhance the
3 child's welfare, and to preserve family life where possible. In the
4 course of an investigation, at the time that a department
5 investigator contacts an individual about whom a report has been
6 made under this act or contacts an individual responsible for the
7 health or welfare of a child about whom a report has been made
8 under this act, the department investigator shall advise that
9 individual of the department investigator's name, whom the
10 department investigator represents, and the specific complaints or
11 allegations made against the individual. The department shall
12 ensure that its policies, procedures, and administrative rules
13 ensure compliance with the provisions of this act.

14 (3) In conducting its investigation, the department shall seek
15 the assistance of and cooperate with law enforcement officials
16 within 24 hours after becoming aware that 1 or more of the
17 following conditions exist:

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

20 (b) The child is the victim of suspected sexual abuse or
21 sexual exploitation.

22 (c) Abuse or neglect resulting in severe physical injury to
23 the child requires medical treatment or hospitalization. For
24 purposes of this subdivision and section 17, "severe physical
25 injury" means brain damage, skull or bone fracture, subdural
26 hemorrhage or hematoma, dislocation, sprains, internal injuries,
27 poisoning, burns, scalds, severe cuts, or any other physical injury

1 that seriously impairs the health or physical well-being of a
2 child.

3 (d) Law enforcement intervention is necessary for the
4 protection of the child, a department employee, or another person
5 involved in the investigation.

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

8 **(F) THE CHILD HAS BEEN EXPOSED TO OR HAD CONTACT WITH**
9 **METHAMPHETAMINE PRODUCTION.**

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

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

21 (6) In each county, the prosecuting attorney and the
22 department shall develop and establish procedures for involving law
23 enforcement officials as provided in this section. In each county,
24 the prosecuting attorney and the department shall adopt and
25 implement standard child abuse and neglect investigation and
26 interview protocols using as a model the protocols developed by the
27 governor's task force on children's justice as published in FIA

1 Publication 794 (revised 8-98) and FIA Publication 779 (8-98), or
2 an updated version of those publications.

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 agency
7 administratively independent of the agency, institution, or
8 facility being investigated. If the investigation produces evidence
9 of a violation of section 145c or sections 520b to 520g of the
10 Michigan penal code, 1931 PA 328, MCL 750.145c and 750.520b to
11 750.520g, the investigating agency shall transmit a copy of the
12 results of the investigation to the prosecuting attorney of the
13 county in which the agency, institution, or facility is located.

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

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

1 (a) Before contact with the child, the department investigator
2 shall review with the designated school staff person the
3 department's responsibilities under this act and the investigation
4 procedure.

5 (b) After contact with the child, the department investigator
6 shall meet with the designated school staff person and the child
7 about the response the department will take as a result of contact
8 with the child. The department may also meet with the designated
9 school staff person without the child present and share additional
10 information the investigator determines may be shared subject to
11 the confidentiality provisions of this act.

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

15 (10) A child shall not be subjected to a search at a school
16 that requires the child to remove his or her clothing to expose his
17 buttocks or genitalia or her breasts, buttocks, or genitalia unless
18 the department has obtained an order from a court of competent
19 jurisdiction permitting such a search. If the access occurs within
20 a hospital, the investigation shall be conducted so as not to
21 interfere with the medical treatment of the child or other
22 patients.

23 (11) The department shall enter each report made under this
24 act that is the subject of a field investigation into the CPSI
25 system. The department shall maintain a report entered on the CPSI
26 system as required by this subsection until the child about whom
27 the investigation is made is 18 years old or until 10 years after

1 the investigation is commenced, whichever is later, or, if the case
2 is classified as a central registry case, until the department
3 receives reliable information that the perpetrator of the abuse or
4 neglect is dead. Unless made public as specified information
5 released under section 7d, a report that is maintained on the CPSI
6 system is confidential and is not subject to the disclosure
7 requirements of the freedom of information act, 1976 PA 442, MCL
8 15.231 to 15.246.

9 (12) After completing a field investigation and based on its
10 results, the department shall determine in which single category,
11 prescribed by section 8d, to classify the allegation of child abuse
12 or neglect.

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

17 (14) If the person who made the report is mandated to report
18 under section 3, upon completion of the investigation by the
19 department, the department shall inform the person in writing as to
20 the disposition of the case and shall include in the information at
21 least all of the following:

22 (a) What determination the department made under subsection
23 (12) and the rationale for that decision.

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

26 (c) Notification that the information being conveyed is
27 confidential.

1 (15) Information sent under subsection (14) shall not include
2 personally identifying information for a person named in a report
3 or record made under this act.

4 (16) Unless section 5 of chapter XII of the probate code of
5 1939, 1939 PA 288, MCL 712.5, requires a physician to report to the
6 department, the surrender of a newborn in compliance with chapter
7 XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20,
8 is not reasonable cause to suspect child abuse or neglect and is
9 not subject to the section 3 reporting requirement. This subsection
10 does not apply to circumstances that arise on or after the date
11 that chapter XII of the probate code of 1939, 1939 PA 288, MCL
12 712.1 to 712.20, is repealed. This subsection applies to a newborn
13 whose birth is described in the born alive infant protection act
14 and who is considered to be a newborn surrendered under the safe
15 delivery of newborns law as provided in section 3 of chapter XII of
16 the probate code of 1939, 1939 PA 288, MCL 712.3.

17 (17) All department employees involved in investigating child
18 abuse or child neglect cases shall be trained in the legal duties
19 to protect the state and federal constitutional and statutory
20 rights of children and families from the initial contact of an
21 investigation through the time services are provided.