

# HOUSE BILL No. 5589

February 24, 2004, Introduced by Reps. Sheen, Sak, Shaffer, Huizenga, Hoogendyk, Stahl, Ehardt, Pastor, Milosch, Acciavatti, Hummel, Hager, Kooiman, Voorhees, Vander Veen, Wenke, DeRoche, Palmer, Drolet, Meyer, Middaugh, Casperson, Zelenko, Dennis, Farhat, Mortimer, Robertson, LaJoy, Bradstreet, Tabor, Ward, Shackleton, Lipsey, Gleason, Bieda, Brown, Adamini, Condino, Farrah, Wojno, Moolenaar, Taub, Stakoe, Rocca, Pappageorge, Caul, Ruth Johnson, Rivet and O'Neil 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 2002 PA 690.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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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  
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), 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  
10 competent jurisdiction, and appropriate state agencies providing  
11 human services in relation to preventing, identifying, and  
12 treating child abuse and neglect; shall provide, enlist, and  
13 coordinate the necessary services, directly or through the  
14 purchase of services from other agencies and professions; and  
15 shall take necessary action to prevent further abuses, to  
16 safeguard and enhance the child's welfare, and to preserve family  
17 life where possible. **If, in the course of its investigation, a**  
18 **department investigator contacts an individual or family member**  
19 **of a child about whom a report has been made under this act, the**  
20 **department investigator shall advise that individual or family**  
21 **member of the department investigator's name, who the department**  
22 **investigator represents, and that he or she is interviewing the**  
23 **individual or family member to discuss an allegation of child**  
24 **abuse or neglect. If the department investigator does not advise**  
25 **the individual or family member as prescribed in this subsection,**  
26 **the department shall institute a corrective action plan relating**  
27 **to that department investigator.**

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

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

7 (b) The child is the victim of suspected sexual abuse or  
8 sexual exploitation.

9 (c) Abuse or neglect resulting in severe physical injury to  
10 the child requires medical treatment or hospitalization. For  
11 purposes of this subdivision and section 17, "severe physical  
12 injury" means brain damage, skull or bone fracture, subdural  
13 hemorrhage or hematoma, dislocation, sprains, internal injuries,  
14 poisoning, burns, scalds, severe cuts, or any other physical  
15 injury that seriously impairs the health or physical well-being  
16 of a child.

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

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

22 (4) Law enforcement officials shall cooperate with the  
23 department in conducting investigations under subsections (1) and  
24 (3) and shall comply with sections 5 and 7. The department and  
25 law enforcement officials shall conduct investigations in  
26 compliance with the protocols adopted and implemented as required  
27 by subsection (6).

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

7           (6) In each county, the prosecuting attorney and the  
8 department shall develop and establish procedures for involving  
9 law enforcement officials as provided in this section. In each  
10 county, the prosecuting attorney and the department shall adopt  
11 and implement standard child abuse and neglect investigation and  
12 interview protocols using as a model the protocols developed by  
13 the governor's task force on children's justice as published in  
14 FIA Publication 794 (revised 8-98) and FIA Publication 779  
15 (8-98), or an updated version of those publications.

16           (7) If there is reasonable cause to suspect that a child in  
17 the care of or under the control of a public or private agency,  
18 institution, or facility is an abused or neglected child, the  
19 agency, institution, or facility shall be investigated by an  
20 agency administratively independent of the agency, institution,  
21 or facility being investigated. If the investigation produces  
22 evidence of a violation of section 145c or sections 520b to 520g  
23 of the Michigan penal code, 1931 PA 328, MCL 750.145c and  
24 750.520b to 750.520g, the investigating agency shall transmit a  
25 copy of the results of the investigation to the prosecuting  
26 attorney of the county in which the agency, institution, or  
27 facility is located.

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

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

16           (a) Before contact with the child, the department  
17 investigator shall review with the designated school staff person  
18 the department's responsibilities under this act and the  
19 investigation procedure.

20           (b) After contact with the child, the department investigator  
21 shall meet with the designated school staff person and the child  
22 about the response the department will take as a result of  
23 contact with the child. The department may also meet with the  
24 designated school staff person without the child present and  
25 share additional information the investigator determines may be  
26 shared subject to the confidentiality provisions of this act.

27           (c) Lack of cooperation by the school does not relieve or

1 prevent the department from proceeding with its responsibilities  
2 under this act.

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

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

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

1 (13) Except as provided in subsection (14), upon completion  
2 of the investigation by the local law enforcement agency or the  
3 department, the law enforcement agency or department may inform  
4 the person who made the report as to the disposition of the  
5 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  
9 to the disposition of the case and shall include in the  
10 information at least all of the following:

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

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 not include  
18 personally identifying information for a person named in a report  
19 or record made under this act.

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

1 the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is  
2 repealed. This subsection applies to a newborn whose birth is  
3 described in the born alive infant protection act and who is  
4 considered to be a newborn surrendered under 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.