

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 874

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending section 13 (MCL 722.633), as amended by 2002 PA 14.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13. (1) A person who is required by this act to report an
2 instance of suspected child abuse or **CHILD** neglect and who fails to
3 do so is civilly liable for the damages proximately caused by the
4 failure.

5 (2) A person who is required by this act to report an instance
6 of suspected child abuse or **CHILD** neglect and who knowingly fails
7 to ~~do so~~ **REPORT** is guilty of a misdemeanor punishable by
8 imprisonment for not more than 93 days or a fine of not more than
9 \$500.00, or both.

10 **(3) IF A PERSON DESCRIBED IN SUBSECTION (2) COMMITS A SECOND**

1 OFFENSE AS DESCRIBED IN SUBSECTION (2), THE PERSON IS GUILTY OF A
2 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR
3 A FINE OR NOT MORE THAN \$5,000.00, OR BOTH.

4 (4) IF A PERSON DESCRIBED IN SUBSECTION (2) COMMITS A THIRD OR
5 SUBSEQUENT OFFENSE AS DESCRIBED IN SUBSECTION (2), THE PERSON IS
6 GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4
7 YEARS OR A FINE OF NOT MORE THAN \$15,000.00, OR BOTH.

8 (5) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED
9 SENTENCE UNDER SUBSECTION (3) OR (4) BASED UPON THE DEFENDANT
10 HAVING 1 OR MORE PRIOR CONVICTIONS, THE PROSECUTING ATTORNEY SHALL
11 INCLUDE ON THE COMPLAINT AND INFORMATION A STATEMENT LISTING THE
12 PRIOR CONVICTION OR CONVICTIONS. THE EXISTENCE OF THE DEFENDANT'S
13 PRIOR CONVICTION OR CONVICTIONS SHALL BE DETERMINED BY THE COURT,
14 WITHOUT A JURY, AT SENTENCING OR AT A SEPARATE HEARING FOR THAT
15 PURPOSE BEFORE SENTENCING. THE EXISTENCE OF A PRIOR CONVICTION MAY
16 BE ESTABLISHED BY ANY EVIDENCE RELEVANT FOR THAT PURPOSE,
17 INCLUDING, BUT NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

18 (A) A COPY OF THE JUDGMENT OF CONVICTION.

19 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR SENTENCING.

20 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

21 (D) THE DEFENDANT'S STATEMENT.

22 (6) IF THE SENTENCE FOR A CONVICTION UNDER THIS SECTION IS
23 ENHANCED BY 1 OR MORE CONVICTIONS, THOSE PRIOR CONVICTIONS SHALL
24 NOT BE USED TO FURTHER ENHANCE THE SENTENCE FOR THE CONVICTION
25 UNDER SECTION 10, 11, OR 12 OF CHAPTER IX OF THE CODE OF CRIMINAL
26 PROCEDURE, 1927 PA 175, MCL 769.10, 769.11, AND 769.12.

27 (7) ~~(3)~~—Except as provided in section 7, a person who

1 disseminates, or who permits or encourages the dissemination of,
2 information contained in the central registry and in reports and
3 records made as provided in this act is guilty of a misdemeanor
4 punishable by imprisonment for not more than 93 days or a fine of
5 not more than \$100.00, or both, and is civilly liable for the
6 damages proximately caused by the dissemination.

7 (8) ~~(4)~~—A person who willfully maintains a report or record
8 required to be expunged under section 7 is guilty of a misdemeanor
9 punishable by imprisonment for not more than 93 days or a fine of
10 not more than \$100.00, or both.

11 (9) ~~(5)~~—A person who intentionally makes a false report of
12 child abuse or **CHILD** neglect under this act knowing that the report
13 is false is guilty of a crime as follows:

14 (a) If the child abuse or **CHILD** neglect reported would not
15 constitute a crime or would constitute a misdemeanor if the report
16 were true, the person is guilty of a misdemeanor punishable by
17 imprisonment for not more than 93 days or a fine of not more than
18 \$100.00, or both.

19 (b) If the child abuse or **CHILD** neglect reported would
20 constitute a felony if the report were true, the person is guilty
21 of a felony punishable by the lesser of the following:

22 (i) The penalty for the child abuse or **CHILD** neglect falsely
23 reported.

24 (ii) Imprisonment for not more than 4 years or a fine of not
25 more than \$2,000.00, or both.

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

1 Enacting section 2. This amendatory act does not take effect
2 unless Senate Bill No. 880 of the 99th Legislature is enacted into
3 law.