

# SENATE BILL No. 761

October 18, 2001, Introduced by Senators BULLARD, NORTH, GOSCHKA, MC COTTER and STEIL and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 411 (MCL 750.411), as amended by 2000 PA  
339.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 411. (1) ~~A person, firm, or corporation conducting a~~  
2 ~~hospital or pharmacy in this state, the person managing or in~~  
3 ~~charge of a hospital or pharmacy, or the person in charge of a~~  
4 ~~ward or part of a hospital to which 1 or more persons come or are~~  
5 ~~brought suffering from a wound or other injury inflicted by means~~  
6 ~~of a knife, gun, pistol, or other deadly weapon, or by other~~  
7 ~~means of violence, has a duty to report that fact immediately,~~  
8 ~~both by telephone and in writing, to the chief of police or other~~  
9 ~~head of the police force of the village or city in which the~~  
10 ~~hospital or pharmacy is located, or to the county sheriff if the~~

~~1 hospital or pharmacy is located outside the incorporated limits~~  
~~2 of a village or city. The report shall state the name and resi-~~  
~~3 dence of the person, if known, his or her whereabouts, and the~~  
~~4 cause, character, and extent of the injuries and may state the~~  
~~5 identification of the perpetrator, if known.~~ IF AN INDIVIDUAL  
6 SUFFERING FROM AN INJURY INFLICTED BY A FIREARM, KNIFE, OR OTHER  
7 DEADLY WEAPON OR BY OTHER VIOLENT MEANS PRESENTS FOR TREATMENT AT  
8 A HOSPITAL, AT THE PRIVATE PRACTICE OFFICE OF A PHYSICIAN, OR AT  
9 A PHARMACY, THE PHYSICIAN OR A HEALTH PROFESSIONAL OR OTHER INDI-  
10 VIDUAL EMPLOYED BY OR UNDER CONTRACT TO THE PHYSICIAN OR THE HOS-  
11 PITAL, INCLUDING BUT NOT LIMITED TO AN OFFICER OF THE HOSPITAL,  
12 OR THE PHARMACIST OR ANOTHER INDIVIDUAL EMPLOYED BY OR UNDER CON-  
13 TRACT TO THE PHARMACY SHALL IMMEDIATELY REPORT THAT FACT TO THE  
14 STATE POLICE OR TO THE LOCAL LAW ENFORCEMENT AGENCY WITH JURIS-  
15 DICTION OVER THE PLACE WHERE THE INJURY OCCURRED. IF IT IS  
16 UNKNOWN WHERE THE INJURY OCCURRED, THE REPORT SHALL BE MADE TO  
17 THE STATE POLICE OR TO A LOCAL LAW ENFORCEMENT AGENCY WITH JURIS-  
18 DICTION OVER THE LOCAL GOVERNMENTAL UNIT IN WHICH THE HOSPITAL,  
19 PRIVATE PRACTICE OFFICE, OR PHARMACY IS LOCATED.

20       (2) ~~A physician or surgeon who has under his or her charge~~  
~~21 or care a person suffering from a wound or injury inflicted in~~  
~~22 the manner described in subsection (1) has a duty to report that~~  
~~23 fact in the same manner and to the same officer as required by~~  
~~24 subsection (1).~~ THE REPORT REQUIRED UNDER SUBSECTION (1) SHALL  
25 BE MADE BOTH ORALLY AND IN WRITING AND SHALL CONTAIN AT A MINIMUM  
26 THE NAME AND ADDRESS OF THE INJURED INDIVIDUAL, IF KNOWN, AND THE  
27 NATURE AND EXTENT OF THE INJURY.

1       (3) ~~A person, firm, or corporation that~~ AN INDIVIDUAL WHO  
2 violates ~~this section~~ SUBSECTION (1) is guilty of a  
3 misdemeanor.

4       (4) To the extent not protected by the immunity conferred by  
5 1964 PA 170, MCL 691.1401 to 691.1415, a person who makes a  
6 report in good faith under ~~subsection~~ SUBSECTIONS (1) ~~or~~ AND  
7 (2) or who cooperates in good faith in an investigation, civil  
8 proceeding, or criminal proceeding conducted as a result of such  
9 a report is immune from civil or criminal liability that would  
10 otherwise be incurred by making the report or cooperating in the  
11 investigation or civil or criminal proceeding. A person who  
12 makes a report under ~~subsection~~ SUBSECTIONS (1) ~~or~~ AND (2) or  
13 who cooperates in an investigation, civil proceeding, or criminal  
14 proceeding conducted as a result of such a report is presumed to  
15 have acted in good faith. The presumption created by this sub-  
16 section may be rebutted only by clear and convincing evidence.

17       (5) The immunity from civil and criminal liability granted  
18 under subsection (4) extends only to the actions described in  
19 subsection (4) and does not extend to another act or omission  
20 that is negligent or that amounts to professional malpractice, or  
21 both, and that causes personal injury or death.

22       (6) The physician-patient privilege created under section  
23 2157 of the revised judicature act of 1961, 1961 PA 236, MCL  
24 600.2157, a health professional-patient privilege created under  
25 article 15 of the public health code, 1978 PA 368, MCL 333.16101  
26 to 333.18838, and any other health professional-patient privilege  
27 created or recognized by law do not apply to a report made under

1 ~~subsection~~ SUBSECTIONS (1) ~~or~~ AND (2), are not valid reasons  
2 for a failure to comply with ~~subsection~~ SUBSECTIONS (1) ~~or~~  
3 AND (2), and are not a defense to a misdemeanor charge filed  
4 under this section.

5 (7) AS USED IN THIS SECTION:

6 (A) "HOSPITAL" MEANS A HOSPITAL LICENSED UNDER ARTICLE 17 OF  
7 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20101 TO 333.22260.

8 (B) "PHARMACIST" MEANS AN INDIVIDUAL LICENSED TO ENGAGE IN  
9 THE PRACTICE OF PHARMACY UNDER ARTICLE 15 OF THE PUBLIC HEALTH  
10 CODE, 1978 PA 368, MCL 333.16101 TO 333.18838.

11 (C) "PHARMACY" MEANS A BUILDING OR PART OF A BUILDING IN  
12 WHICH THE PRACTICE OF PHARMACY IS CONDUCTED AND THAT IS LICENSED  
13 UNDER ARTICLE 15 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL  
14 333.16101 TO 333.18838.

15 (D) "PHYSICIAN" MEANS AN INDIVIDUAL LICENSED TO PRACTICE  
16 MEDICINE OR OSTEOPATHIC MEDICINE AND SURGERY UNDER ARTICLE 15 OF  
17 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16101 TO 333.18838.