HOUSE BILL No. 4327

March 12, 2003, Introduced by Reps. Bieda, Elkins, Gleason, Brandenburg, Vagnozzi, Accavitti, Condino, Wojno, Farrah, Spade, Phillips, Zelenko, Anderson, Woodward, Gillard, Rivet, Brown, Adamini, Law, Daniels, Dennis, Plakas, Lipsey, Paletko, Stallworth, Jamnick, Gieleghem, O'Neil, Vander Veen and Hardman and referred to the Committee on Criminal Justice.

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

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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 **as follows:**

22   **(a) Except as provided in subdivision (b),** by imprisonment

23 for not more than 15 years.

24   **(b) Except as provided in section 316, if the violation**

25 **results in the death of the child, by imprisonment for life or**

26 **any term of years but not less than 15 years.**

27   (3) A person is guilty of child abuse in the second degree if

1 any of the following apply:

2   (a) The person's omission causes serious physical harm or

3 serious mental harm to a child or if the person's reckless act

4 causes serious physical harm to a child.

5   (b) The person knowingly or intentionally commits an act

6 likely to cause serious physical or mental harm to a child

7 regardless of whether harm results.

8   (c) The person knowingly or intentionally commits an act that

9 is cruel to a child regardless of whether harm results.

10   (4) Child abuse in the second degree is a felony punishable

11 by imprisonment for not more than 4 years.

12   (5) A person is guilty of child abuse in the third degree if

13 the person knowingly or intentionally causes physical harm to a

14 child. Child abuse in the third degree is a misdemeanor

15 punishable by imprisonment for not more than 2 years.

16   (6) A person is guilty of child abuse in the fourth degree if

17 the person's omission or reckless act causes physical harm to a

18 child. Child abuse in the fourth degree is a misdemeanor

19 punishable by imprisonment for not more than 1 year.

20   (7) This section does not prohibit a parent or guardian, or

21 other person permitted by law or authorized by the parent or

22 guardian, from taking steps to reasonably discipline a child,

23 including the use of reasonable force.