

CHILD PROTECTION LAW (EXCERPT)
Act 238 of 1975

***** 722.628.amended THIS AMENDED SECTION IS EFFECTIVE NOVEMBER 1, 2022 *****

722.628.amended Referring report or commencing investigation; informing parent or legal guardian of investigation; duties of department; assistance of and cooperation with law enforcement officials; procedures; procedures by prosecuting attorney; cooperation of school or other institution; information as to disposition of report; request to amend report; exception to reporting requirement; surrender of newborn; training of employees in rights of children and families; determination of open friend of the court case.

Sec. 8. (1) Within 24 hours after receiving a report made under this act, the department must refer the report to the prosecuting attorney and the local law enforcement agency if the report meets the requirements of subsection (3)(a), (b), or (c) or section 3(6) or (9) or must commence an investigation of the child suspected of being abused or neglected. Within 24 hours after receiving a report whether from the reporting person or from the department under subsection (3)(a), (b), or (c) or section 3(6) or (9), the local law enforcement agency must refer the report to the department if the report meets the requirements of section 3(7) or must commence an investigation of the child suspected of being abused or neglected or exposed to or who has had contact with methamphetamine production. If the child suspected of being abused or exposed to or who has had contact with methamphetamine production is not in the physical custody of the parent or legal guardian and informing the parent or legal guardian would not endanger the child's health or welfare, the local law enforcement agency or the department must inform the child's parent or legal guardian of the investigation as soon as the local law enforcement agency or the department discovers the identity of the child's parent or legal guardian.

(2) In the course of its investigation, the department must determine if the child is abused or neglected. The department must cooperate with law enforcement officials, courts of competent jurisdiction, and appropriate state agencies providing human services in relation to preventing, identifying, and treating child abuse and child neglect; must provide, enlist, and coordinate the necessary services, directly or through purchasing services from other agencies and professions; and must take necessary action to prevent further abuses, to safeguard and enhance the child's welfare, and to preserve family life where possible. In the course of an investigation, at the time that a department investigator contacts an individual about whom a report has been made under this act or contacts an individual responsible for the health or welfare of a child about whom a report has been made under this act, the department investigator must advise that individual of the department investigator's name, whom the department investigator represents, and the specific complaints or allegations made against the individual. The department must ensure that its policies, procedures, and administrative rules ensure compliance with this act.

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

- (a) Child abuse or child neglect is the suspected cause of a child's death.
- (b) The child is the victim of suspected sexual abuse or sexual exploitation.
- (c) Child abuse or child neglect resulting in serious physical harm to the child.
- (d) Law enforcement intervention is necessary for the protection of the child, a department employee, or another person involved in the investigation.
- (e) The alleged perpetrator of the child's injury is not a person responsible for the child's health or welfare.
- (f) The child has been exposed to or had contact with methamphetamine production.

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

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

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

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

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

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

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

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

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

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

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

(12) After completing a field investigation and based on its results, the department must determine in which single category, prescribed by section 8d, to classify the allegation of child abuse or child neglect and determine whether the child abuse or child neglect must be classified as a central registry case.

(13) A person who is the subject of a report or record made under this section in which the violation does not result in being placed on the central registry, but is categorized as a category I, II, or III case under section 8d, may request the department amend an inaccurate report or record from the local office file. Within 30 days after the classification of a confirmed case that does not result in being placed on the central registry, the department must notify in writing each person who is named in the report or record as a perpetrator of confirmed serious abuse or neglect. This notice requirement includes all the following:

(a) Must be sent by first-class mail to the identified perpetrator.

(b) Must set forth the person's right to request amendment of the record and the right to an administrative review conducted by the department.

(c) Must state that the record may be released under section 7d, and may impact future employment or licensing opportunities.

(d) Must not identify the person reporting the suspected child abuse or child neglect.

(14) The request described in subsection (13) must be made within 180 days after the date of service of notice of a confirmed serious abuse or neglect. The department may, for good cause, extend the time frame for the request after the 180-day notice if the department determines that the person who is the subject of the report or record submitted the request for an administrative review within 60 days after the 180-day notice period expired. The department must create an administrative process to determine whether the report or record should be amended.

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

(16) If the person who made the report is mandated to report under section 3, upon completion of the investigation by the department, the department must inform the person in writing as to the disposition of the case and must include in the information at least all of the following:

- (a) What determination the department made under subsection (12) and the rationale for that decision.
- (b) Whether legal action was commenced and, if so, the nature of that action.
- (c) Notification that the information being conveyed is confidential.

(17) Information sent under subsection (16) must not include personally identifying information for a person named in a report or record made under this act.

(18) Unless section 5 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.5, requires a physician to report to the department, the surrender of a newborn in compliance with chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is not reasonable cause to suspect child abuse or child neglect and is not subject to the section 3 reporting requirement. This subsection does not apply to circumstances that arise on or after the date that chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is repealed. This subsection applies to a newborn whose birth is described in the born alive infant protection act, 2002 PA 687, MCL 333.1071 to 333.1073, and who is considered to be a newborn surrendered under the safe delivery of newborns law as provided in section 3 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.3.

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

(20) The department must determine whether there is an open friend of the court case regarding a child who is suspected of being abused or neglected if a child protective services investigation of child abuse and child neglect allegations result in any of the following dispositions:

- (a) A finding that a preponderance of evidence indicates that there has been child abuse or child neglect.
- (b) Emergency removal of the child for child abuse or child neglect before the investigation is completed.
- (c) The family court takes jurisdiction on a petition and a child is maintained in his or her own home under the supervision of the department.
- (d) If 1 or more children residing in the home are removed and 1 or more children remain in the home.
- (e) Any other circumstances that the department determines are applicable and related to child safety.

(21) If the department determines that there is an open friend of the court case and the provisions of subsection (20) apply, the department must notify the office of the friend of the court in the county in which the friend of the court case is open that there is an investigation being conducted under this act regarding that child and must also report to the local friend of the court office when there is a change in that child's placement.

(22) Child protective services may report to the local friend of the court office any situation in which a parent, more than 3 times within 1 year or on 5 cumulative reports over several years, made unfounded reports to child protective services regarding alleged child abuse or child neglect of his or her child.

(23) If the department determines that there is an open friend of the court case, the department must provide a noncustodial parent of a child who is suspected of being abused or neglected with the form developed by the department that has information on how to change a custody or parenting time court order.

History: 1975, Act 238, Eff. Oct. 1, 1975;—Am. 1978, Act 252, Eff. Mar. 30, 1979;—Am. 1984, Act 418, Eff. Mar. 29, 1985;—Am. 1988, Act 372, Eff. Mar. 30, 1989;—Am. 1997, Act 59, Eff. Oct. 1, 1997;—Am. 1997, Act 166, Eff. Mar. 31, 1998;—Am. 1998, Act 484, Eff. July 1, 1999;—Am. 2000, Act 45, Imd. Eff. Mar. 27, 2000;—Am. 2000, Act 234, Eff. Jan. 1, 2001;—Am. 2002, Act 690, Eff. Mar. 31, 2003;—Am. 2004, Act 195, Imd. Eff. July 8, 2004;—Am. 2006, Act 256, Imd. Eff. July 6, 2006;—Am. 2006, Act 583, Imd. Eff. Jan. 3, 2007;—Am. 2006, Act 630, Imd. Eff. Jan. 3, 2007;—Am. 2008, Act 46, Imd. Eff. Mar. 27, 2008;—Am. 2008, Act 300, Imd. Eff. Oct. 8, 2008;—Am. 2016, Act 491, Eff. Apr. 6, 2017;—Am. 2022, Act 65, Eff. Nov. 1, 2022.