

# Domestic Violence

## BACKGROUND

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### Child Abuse

The state defines *child abuse* as harm or threatened harm—occurring through nonaccidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment—to a child’s health and welfare by a parent, legal guardian, or other person responsible for the child’s health and welfare. *Neglect* is defined as harm or threatened harm that occurs through negligent treatment; examples are failure to provide adequate food, clothing, shelter, or medical care. Neglect includes placing the child at an unreasonable risk by failing to intervene to eliminate that risk when the person is able to do so and has, or should have, knowledge of the risk.

The Family Independence Agency (FIA), formerly the Michigan Department of Social Services, is required by law to respond to every report of suspected child abuse or neglect within 24 hours; an FIA child protective services caseworker must (1) dismiss the complaint, (2) begin an investigation to be completed within 21 days, or (3) refer the complaint to law enforcement officials. Although anyone may report child abuse, the following, if they suspect abuse, are required by law to report their suspicions to the FIA: physicians, coroners, dentists, medical examiners, nurses, audiologists, social workers, law enforcement officers, child care providers, school administrators, counselors, and teachers.

In fiscal year 1996–97, the FIA received 125,000 complaints of child abuse or neglect, investigated nearly 60,000, and substantiated more than 11,500. More than 80 percent of substantiated cases of abuse and neglect are perpetrated by parents with whom the child is living.

Historically, state government focused on detecting and protecting abused children and rehabilitating abusers, but in recent years growing emphasis has been placed on prevention and on the continuum of services needed to prevent abuse by supporting families. In 1982 the Children’s Trust Fund was established, to create a permanent funding source for prevention programs for populations that are not part of the active FIA protective services caseload. Money for the fund comes from state income-tax return checkoffs, interest earned, private donations, and a federal grant. As of September 1997 almost \$22 million had been collected. About \$6 million has been placed in the trust account, and the rest has funded prevention programs. When the trust account reaches \$20 million, the income-tax checkoff will be eliminated.

## GLOSSARY

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### Child abuse

An action by a parent, legal guardian, or other person responsible for a child’s health and welfare that (1) harms or threatens harm to a child’s health and welfare and (2) occurs through nonaccidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment.

### Domestic violence

Abusive behavior that threatens the health, safety, physical or mental well-being, or financial security of a member of a household; the state’s response to incidents of domestic violence depends on whether the victim is a child, spouse, or elderly person.

### Neglect

Harm or threatened harm that occurs through negligent treatment, such as failing to provide adequate food, clothing, shelter, or medical care; includes placing someone at an unreasonable risk by failing to intervene when one can and knows, or should know, of the risk.

### Stalking

Harassment that terrorizes, frightens, intimidates, threatens, or molests someone.

In the mid-1980s several laws were enacted to protect children: Missing-person reporting procedures were standardized; voluntary fingerprinting of children now is allowed; in-state parental kidnapping became a felony; and procedures for reporting and tracking arrest information were enhanced so that arrest records may be checked more accurately. Further legislation permits child abuse victims to have their testimony videotaped in private rather than having to testify in court.

In the mid-1990s, child abuse became the subject of widespread attention in Michigan. In part, the interest was generated by the report of the lieutenant governor's Children's Commission and by the annual reports of the Office of the Children's Ombudsman, an autonomous office created in 1994 to investigate complaints about FIA's protective services. These two comprehensive reports examined the workings of the child welfare system, identified its strengths and weakness, and proposed specific changes in administrative procedure and law. Several recommendations from the reports, particularly the Children's Commission report, were enacted into law in 1997.

Under the 1997 laws, the state is able to sever parental rights more quickly than before in egregious cases of sexual and psychological child abuse and also to put children up for adoption sooner.

New legislation also provides for previously confidential information on some child abuse cases to be available under the Freedom of Information Act; waives some licensing requirements on foster homes, to keep siblings together; gives parents of abused children priority access to substance abuse treatment; revises the duties of local foster-care review boards; and requires published evaluation of state performance on child abuse. These laws, together with additional legislation on legal and medical aspects of child abuse recently introduced, have strengthened investigation by social workers and law enforcement, and they help assure that children who cannot be reunited with their family are found a safe, secure home as quickly as possible. In early 1998 substantial new funds were

made available for child abuse and neglect prevention programs throughout the state, and the budget proposes additional funding for adoption-subsidy programs to be used to help place abused and neglected children in permanent homes.

KIDS COUNT in Michigan, a joint project of Michigan's Children and the Michigan League for Human Services, develops data on child welfare in local communities; the objective is to influence public policy related to children and families. The project annually reports township, city, and county data—including that on abuse—on children; it also establishes partnerships with local communities to address child welfare concerns, especially abuse and neglect.

Children's Charter of the Courts of Michigan is a private, nonprofit organization involved with issues that bring children in contact with the court system. The group assists communities with abuse-prevention and family-support programs and lobbies for legislative and administrative change that will reduce child abuse and neglect.

Each county FIA office operates a hotline for reporting child abuse. There also is a statewide hotline number for parenting help, crisis intervention, and referrals: (800) 942-4357.

### **Spouse Abuse**

Spouse abuse is investigated by the police. Until 1978 it was considered a misdemeanor, meaning that the police could not arrest an abuser unless they had a warrant—which requires that the victims first go to court—or they had witnessed the crime taking place. More recently, spouse abuse has been recognized as a violent criminal act. In the late 1980s, new legislation was enacted that allows people to be prosecuted for raping their spouse. Additional legislation requires that people arrested for domestic violence be held in custody until brought before a magistrate for arraignment. Michigan law also includes domestic violence as a factor that the court, in making child-custody and parental-visitation decisions, must consider in determining a child's best interest.

## DOMESTIC VIOLENCE

In 1993 *stalking*—defined as a willful course of conduct involving repeated or continuous harassment that could and does cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed or molested—became a crime in Michigan. Victims may press charges against the stalker, obtain a restraining order with provisions for immediate arrest and criminal-contempt penalties, and sue for damages. Later legislation authorizes a warrantless arrest for violating a condition of bail imposed for protection, and authorizes police, if they have reasonable cause to suspect a violation of a domestic-abuse injunction, to arrest without a warrant. Effective in 1994, legislation expanded injunctive relief to include those *threatened* with harm. It also provides for new crimes of simple and aggravated domestic assault, requires more comprehensive police reports on domestic violence, and requires police to inform victims of their expanded rights.

Federal law enacted in 1994 encourages the arrest of offenders and provides funds for battered-women's shelters, community initiatives on domestic violence, and rural domestic-violence and child-abuse enforcement assistance. A package of 1995 state legislation provides for a personal protection order (PPO), to take the place of a domestic-assault injunction or restraining order; these laws allow access to PPOs to those in a dating relationship, and restrain the subject of an order from interfering in domestic or work relationships of the petitioner, threatening the petitioner, or purchasing or possessing a firearm. State legislation passed in 1997 allows Michigan to waive certain welfare program rules, such as time limits and work requirements, for welfare recipients who have been victims of domestic violence.

Although the state does not directly operate spouse-abuse programs, the FIA's Domestic Violence Prevention and Treatment Board coordinates and partially funds Michigan's 45 private, nonprofit local domestic-violence centers. Some centers in rural areas serve multiple counties, but shelter and counseling are available to victims from any county. Each shelter receives \$75,000 annually in aid from the

state, \$5,000 in federal money, private donations, and additional funds based on county population.

The Michigan Coalition against Domestic and Sexual Violence (MCADSV) is a statewide organization that provides training and technical assistance for domestic-violence professionals and volunteer organizations, participates in public policy initiatives, provides emergency and support services through member agencies, and promotes public awareness of domestic and sexual violence.

Data collected by community domestic violence shelters in Michigan show that statewide in FY 1996–97, 9,319 women and 7,405 children used Michigan shelters, and 163 men were given shelter in hotels; shelter, legal counseling, or other support services were offered to another 15,401 women and 2,344 children.

The national hotline number to report domestic violence, with referrals to services in all states, is (800) 799-7233.

### Elder Abuse

Neither the state nor senior-citizen organizations elect to estimate the frequency of elder abuse, but its occurrence generally is believed to be vastly underreported. Reports of domestic abuse against the elderly increased 150 percent from 1986 to 1996, according to a study by the National Center on Elder Abuse. Definitions of abuse vary by state. In Michigan, harm to a vulnerable adult may be of three types—abuse, neglect, or exploitation. Public attention to elder abuse has increased with wider media exposure in recent years, particularly of exploitation by solicitation and telemarketing.

In 1982 Michigan passed the Adult Protective Services Act, which requires the FIA to investigate all complaints of abuse or neglect of people aged 18 and over, in settings other than nursing homes and other public facilities, who are vulnerable because of mental or physical impairment or the frailty and dependency of advanced age. Similar to child abuse cases, such reports must be investigated by FIA immedi-

ately if serious injury is suspected, otherwise within 24 hours. If the department substantiates abuse or neglect, it may provide or make arrangements for whatever services—social, health, remedial, or legal—are needed to correct or relieve the problem. Additional legislation on vulnerable adults requires physicians as well as other health professionals to report suspected abuse, alters provisions for appointing guardians for abused or neglected adults, and provides for the FIA to arrange for substance abuse services if needed.

Vulnerable-adult abuse/neglect legislation passed in 1994 establishes penalties for a wide range of harmful actions by caregivers or other persons who have authority over vulnerable adults. Included are penalties for (1) causing harm by failing to act, (2) retaliating against those making disclosures about abuse, and (3) interfering with an abuse investigation. The FIA also was given broader discretion in licensing and refusing licenses for adult foster care facilities.

The Michigan Office of Services to the Aging (OSA), recently moved by executive order from the Michigan Department of Management and Budget to the Michigan Department of Community Health, contracts with 16 Area Agencies on Aging (AAA) to provide services to Michigan's senior citizens, including programs on elder-abuse prevention. Many AAA services are contracted to Citizens for Better Care (CBC), an organization that trains such professionals as law enforcement personnel, prosecuting attorneys, social workers, and hospital personnel to recognize and deal with elder abuse. CBC also promotes education about elder abuse through community-based groups such as Michigan's 475 American Legion posts.

Triad, a program designed to fight crimes that target seniors, was established by the National Sheriffs Association in partnership with the International Association of Chiefs of Police and the American Association of Retired Persons (AARP). Coordinated in Michigan by OSA, Triad has assisted in forming 16 regional tri-

ads that train local law enforcement, local agencies, and senior citizens to deal with crimes that involve elderly people as victims or witnesses. Local triads also survey local seniors regarding crimes they perceive as most prevalent in their area. Triad annually co-sponsors a conference of workshops and informational seminars relating to crimes against the elderly.

The FIA Office of Adult Protective Services, which deals with clients aged 18 and older, investigates reports of adult abuse in settings other than nursing homes and mental health institutions. In 1997 the office opened nearly 7,500 cases of elder abuse, neglect, or exploitation and substantiated 3,360; 44 percent of the victims were aged over 75. Self-neglect and neglect are cited as the most common forms of harm. In 49 percent of substantiated cases, clients were not victims of others—they neglected themselves; in 28 percent of cases, spouses, children, or other relatives were responsible for the abuse, and in 14 percent, caregivers unrelated to the victim were the perpetrators.

The statewide hotline number to report abuse of vulnerable adults is (800) 996-6228.

## DISCUSSION

Philosophically, the most controversial issue surrounding domestic violence is the role of state government; that is, where the line should be drawn between a family's right to privacy and the government's constitutional obligation to protect its citizens.

Some people believe that state government should step in whenever necessary to protect members of society who cannot protect themselves, regardless of the age or mental and physical state of the victim. Others believe that the state oversteps its authority by intruding on family prerogatives. This dichotomy of respecting the rights of parents while protecting the safety of children is illustrated by various court actions in Michigan in 1997: In some cases, parents charged with assault after physically disciplining their children were convicted; in others, they were judged not guilty; in still others, the case was dismissed.

## DOMESTIC VIOLENCE

The challenge for protective services workers lies in complying with a mandate to keep families together and an equally strong mandate to protect children. Some child advocates believe a 1996 FIA policy notification deeming a “preponderance of evidence,” rather than “credible evidence,” as the standard of proof for child abuse raised the level needed to define abuse. The FIA maintains that the change simply reflects the standard workers already were using in the field.

The policy of leaving, if at all possible, children who have been abused or neglected in their homes, while intensive counseling and corrective services are provided, also is questioned by some child advocates. Others believe that the program founded on this concept, Families First, can be a viable approach but requires highly trained workers; they point out that in the past such training of FIA workers has been minimal. Recently, increased training has been required of FIA caseworkers: All new workers must complete the eight-week course of the Child Welfare Institute, and experienced workers must attend parts of the course. These sessions teach risk assessment and structured decision-making to protective services workers who must make possibly life-and-death decisions about the likelihood of abuse, options for kinship care (putting a child in the care of relatives), and what is in the best interest of the child. Child advocates applaud the recent strides in staff training at the FIA.

The rate of substantiated cases of child abuse and neglect declined by 21 percent from 1993 to 1996, while the number of referrals in which credible evidence was found increased. An FIA review turned up no explanation for the decline, but it coincided with a 1992 policy change requiring protective services workers to notify perpetrators that their names will be entered on a central registry. Some people wonder if workers previously may have opened cases on less-than-certain evidence in an effort to provide services to a family and monitor the situation. Given the current need to list an abuser's name on the central registry, some speculate that workers may be seeking a higher degree of evidence before opening a case.

The Children's Commission report and the annual Office of the Children's Ombudsman's reports, and most recommendations therein, have been well-received by the FIA and child advocates alike. The improved training of frontline FIA workers, changes in procedures, and new laws have generated widespread approval, and an atmosphere of increased cooperation is evident among those protecting Michigan's children.

In the area of domestic violence, child custody and welfare reform are issues of continuing interest and debate. Legislation was introduced in 1997 regarding divorce, child custody, and parenting time. One measure (SB 33) would create a presumption of shared parental responsibility in all divorce cases and allow custody and support issues to be settled through a parenting plan prepared by all parties. A judge could reject the plan if s/he considers it not in the best interest of the child. Some domestic violence workers fear that the legislation could give an abusive spouse added power over and access to the victim and children. Proponents of the bill point out that violence against a spouse or child always is a factor in determining the best interest of the child. Many human services workers favor alternative legislation (HB 4399 and 4400), which would require preparation of a specific, individual parenting plan of child care, with no prior presumption of the division of responsibilities. Supporters of SB 33 believe the latter measures are overly complex and would be cumbersome to administer. All three bills are under consideration by the House Judiciary Committee.

Advocates for the elderly are troubled by the lack of action at the national level to reauthorize the Older Americans Act (OAA). Since its original passage in 1965, the OAA has been reauthorized several times, but since its 1995 expiration, the Senate and House have been unable to agree on a reauthorization bill likely to pass both chambers. Programs funded by the act, including those on elder-abuse prevention, are continuing under the previous formula. Debate centers on whether programs will be administered at the national level or by state agencies, and whether allocations will recognize the growth and decline of

populations in some states. Congress is expected to act on OAA in 1998 but as of this writing has not.

*See also* Consumer Protection; Child and Family Issues and Services; Divorce; Early Childhood Development; Health Care Access; Long-Term and Related Care; Substance Abuse.

### **FOR ADDITIONAL INFORMATION**

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Children's Charter of the Court of Michigan  
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(517) 482-2626 FAX

Children's Trust Fund  
P.O. Box 30037  
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(517) 241-7038 FAX

Citizens for Better Care  
Alpha Building, Suite 101  
416 North Homer Street  
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Domestic Violence Prevention and Treatment Board  
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Michigan's Children  
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Michigan Coalition against Domestic  
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National Organization for Women  
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Office of Child and Family Services  
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235 South Grand Avenue  
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