

**Changes made in:**

**THIRD EDITION (Revised 2011)**

**INTRODUCTION**

**NUMBER OF INTERVIEWERS**

**SUPPORT PERSONS**

**QUESTIONS**

**VIDEORECORDING OR AUDIORECORDING AND DOCUMENTATION**

**THE PHYSICAL SETTING**

**INTERVIEWER GUIDELINES**

**THE PHASED INTERVIEW**

- Prepare for the Interview
  - Gather Background Information
  - Generate Alternative Hypotheses and Hypothesis-Testing Questions
  - Set Up the Interview Environment
- Introduce Yourself and Build Rapport
- Establish the Ground Rules
- Conduct a Practice Interview
- Introduce the Topic
- Elicit a Free Narrative
- Question and Clarify
- Close the Interview

**SPECIAL TOPICS**

- Questions About Time
- Interviewing Aids
- Communication Issues
  - Preschoolers
  - Bilingual Children
  - Augmentative and Alternative Communication (AAC)
  - Developmental Disabilities

**QUICK GUIDES**

Quick Guide #1: Alternative Hypotheses Questions and Planning Form

Quick Guide #2: Guidelines for Questioning Children

Quick Guide #3: Overview of a Phased Interview

Quick Guide #4: Hierarchy of Interview Questions

Quick Guide #5: Question Frames

Quick Guide #6: Guidelines for Use of Physical Evidence

Quick Guide #7: Introduce the Topic

**Changes made in:**

**FOURTH EDITION (Revised 2017)**

**VIDEO OR AUDIO RECORDING**

**THE PHASED INTERVIEW**

**GENERATE ALTERNATIVE HYPOTHESES AND HYPOTHESIS AND TESTING**

**SET-UP INTERVIEW ENVIRONMENT**

- Introduce Yourself and Start Building Rapport

**ESTABLISH THE GROUND RULES**

- Example of “tell me if you don’t understand”

- Correct me if I make a mistake

- Truth/Lies

**CONDUCT A PRACTICE NARRATIVE**

**INTRODUCE THE TOPIC**

**ELICIT A FREE NARRATIVE**

**QUESTION, CLARIFY, AND TEST HYPOTHESIS**

- Quick Guides

**INTERVIEWING AIDS**

**QUICK GUIDES**

Quick Guide #2: Guidelines for Questioning Children

Quick Guide #3: Overview of a Phased Interview

Quick Guide #7: Introduce the Topic

**APPENDIX**

Video Recording Laws – Criminal Statute

# Guidelines For Child Development Capabilities

Age of Child	WHO	WHAT	WHERE	WHEN	HOW	# OF TIMES	CIRCUM- STANCES
3							
4							
5-6							
7-10							
11-12							

**STATE OF MICHIGAN**  
**GOVERNOR'S TASK FORCE ON CHILD ABUSE AND NEGLECT**  
**AND**  
**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**FORENSIC INTERVIEWING PROTOCOL**

Fourth Edition



This publication is also available on the Department of Health and Human Services website at [www.michigan.gov/MDHHS](http://www.michigan.gov/MDHHS):

- Select News, Publications & Information.
- Select Publications.
- Scroll or jump to the Children's Protective Services category and select Forensic Interviewing Protocol - MDHHS Pub 779.

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## PREFACE

In 1991, the Governor's Task Force on Children's Justice (Task Force) was created pursuant to federal legislation to respond to the tremendous challenges involved in the handling of cases of child abuse and neglect—particularly child sexual abuse—in Michigan. In August 1993, the Task Force published Department of Human Services Publication 794, *A Model Child Abuse Protocol—Coordinated Investigative Team Approach*.

In 1996, DHS initiated the development of a forensic interviewing protocol by establishing a steering committee within DHS and enlisting nine county DHS offices to participate as pilot counties in testing the protocol. Debra Poole, Ph.D., of Central Michigan University was contracted by DHS to develop a forensic interviewing protocol. Independent of the DHS project, the Task Force also identified the objective of developing and implementing a forensic interviewing protocol. From 1996 to 1998, DHS and the Task Force worked together with Debra Poole in developing and implementing a protocol that would improve the interviewing techniques of all professionals involved in the investigation of child abuse, especially the sexual abuse of children, in Michigan. The first edition of the Forensic Interviewing Protocol was published in 1998.

In 1998, the Child Protection Law was amended to require each county to implement a standard child abuse and neglect investigation and interview protocol using as a model the protocols developed by the Task Force as published in DHS Publication 794, *A Model Child Abuse Protocol—Coordinated Investigative Team Approach* and DHS Publication 779, *Forensic Interviewing Protocol*, or an updated version of those publications.

In September of 2003, the Task Force convened a Forensic Interviewing Protocol Revision Committee to review the original Protocol. In April 2005, the second edition of the Protocol was published. The Committee was reconvened in late 2008. The review of the second edition of the Protocol was completed in 2011 and published in 2012. The Committee was reestablished in 2016 to produce the fourth edition. After a careful and complete examination during all revisions, the Committee edited sections for clarity, improved the examples, added Quick Guides, and provided some additional reference materials, including relevant statutes. Recent research continues to support the methodology used in Michigan's Protocol.

On April 10, 2015, under executive order of Governor Snyder, the Michigan Department of Community Health and the DHS merged to form the Michigan Department of Health and Human Services (MDHHS).

This Protocol should be used in conjunction with the Task Force MDHHS Publication 794, *A Model Child Abuse Protocol—Coordinated Investigative Team Approach*. Proper implementation of MDHHS Publication 779, *Forensic Interviewing Protocol* requires professional training. Training is to be provided only by the current holder of the MDHHS service contract that provides forensic interviewing training. Professionals who have received appropriate training in the application of the Protocol should conduct the interviews of children. The Task Force was renamed the Governor's Task Force on Child Abuse and Neglect in 2010 to better reflect its mission.



## TABLE OF CONTENTS

	Page
Introduction .....	1
Number of Interviewers .....	2
Support Persons .....	2
Video or Audio Recording and Documentation .....	3
The Physical Setting .....	4
Interviewer Guidelines .....	4
The Phased Interview.....	7
Prepare for the Interview .....	8
Gather Background Information .....	8
Generate Alternative Hypotheses and Hypothesis-Testing Questions .....	9
Set Up the Interview Environment .....	10
Introduce Yourself and Start Building Rapport .....	10
Establish the Ground Rules .....	12
Conduct a Practice Narrative .....	13
Introduce the Topic .....	16
Elicit a Free Narrative .....	17
Question, Clarify, and Test Hypotheses .....	19
Close the Interview .....	23

Special Topics .....	25
Questions About Time .....	25
Interviewing Aids .....	26
Communication Issues .....	26
Preschoolers .....	26
Bilingual Children .....	27
Augmentative and Alternative Communication (AAC) .....	27
Developmental Disabilities .....	28
Quick Guide #1: Alternative Hypotheses Questions and Planning Form .....	29
Quick Guide #2: Guidelines for Questioning Children .....	35
Quick Guide #3: Overview of a Phased Interview .....	38
Quick Guide #4: Hierarchy of Interview Questions .....	40
Quick Guide #5: Exploring Issues with Open-Ended Prompts and Question Frames .....	42
Quick Guide #6: Guidelines for Use of Physical Evidence .....	45
Quick Guide #7: Introducing the Topic .....	47
Quick Guide #8: Physical Abuse and Neglect Questions .....	48
Quick Guide #9: Sexual Abuse Questions .....	50
Quick Guide #10: Interviewing About Repeated Similar Events .....	54
End Notes .....	55
Appendix: Video Recording Laws .....	56
References .....	63

# Forensic Interviewing Protocol

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## Introduction

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The goal of a forensic interview is to obtain a statement from a child—in a developmentally—sensitive, unbiased, and truth-seeking manner—that will support accurate and fair decision-making in the criminal justice and child welfare systems. Forensic interviews are part of investigations that sometimes involve retrieval of physical evidence, conversations with collateral contacts, and other fact-finding efforts. Therefore, interviewers should explore topics that might lead to other evidence keeping in mind that a forensic interview is only part of an investigation.

Although information obtained from an investigative interview might be useful for making treatment decisions, the interview is not part of a treatment process. Forensic interviews should not be conducted by professionals who have an on-going or a planned therapeutic relationship with the child.

*forensic interviews are hypothesis-testing rather than hypothesis-confirming (see Quick Guide #1: Alternative Hypotheses Questions and Planning Form)*

There are two overriding features of a forensic interview:

- Hypothesis testing.
- A child-centered approach.

First, forensic interviews are hypothesis-testing rather than hypothesis-confirming (Ceci & Bruck, 1995). Interviewers prepare by generating a set of alternative hypotheses about the source and meaning of the allegations. During an interview, interviewers attempt to rule out alternative explanations for the allegations. For example, when children use terms that suggest sexual touching, interviewers assess the children's understanding of those terms and explore whether touching might have occurred in the context of routine caregiving or medical treatment. When children report details that seem inconsistent, interviewers try to clarify whether the events could have occurred as described, perhaps by exploring whether the children are describing more than one event or are using words in nonstandard ways. Before closing an interview, interviewers should be reasonably confident that the

alleged actions are not subject to multiple interpretations and that any alleged perpetrators are clearly identified.

*forensic interviews should be child-centered (see Quick Guide #2: Guidelines for Questioning Children)*

Second, forensic interviews are child-centered. Although interviewers direct the flow of conversation through a series of phases, children should determine the vocabulary and specific content of conversations as much as possible. Forensic interviewers should avoid suggesting events that have not been mentioned by children or projecting adult interpretations onto situations (e.g., with comments such as “That must have been frightening”).

## **Number of Interviewers**

Local customs and requirements often dictate how many professionals will be involved in conducting an interview. There are advantages and disadvantages of both single-interviewer and team (e.g., child protection and law enforcement) approaches. On the one hand, children may find it easier to build rapport and talk about sensitive issues with a single interviewer; on the other hand, team interviewing may ensure that a broader range of topics are covered and reduce the need for multiple interviews.

*one professional should be the primary interviewer, with the other taking a supportive role*

When two professionals will be present, it is best to appoint one as the primary interviewer, with the second professional taking notes or suggesting additional questions when the interview is drawing to a close. Before conducting the interview, interviewers should have sufficient preparation time to discuss the goals for the interview and the topics that need to be covered; interviewers should not discuss the case in front of the child. At the start of the interview, both interviewers should be clearly introduced to the child by name and job title. Seating the second interviewer out of the line of sight of the child may make the interview seem less confrontational.

## **Support Persons**

The presence of social support persons during forensic interviews is discouraged. Although it makes intuitive sense that children might be more relaxed with social support, studies have failed to find consistent benefits from allowing support persons to be present during interviews (Davis & Bottoms, 2002). Support persons might be helpful during early portions of interviews, but they might also inhibit children from talking about details with a sexual content. Individuals who might be accused of influencing children to discuss abuse, such as parents

involved in custody disputes or therapists, should not be allowed to sit with children during interviews.

If the interviewer deems a support person necessary (for example a social worker or teacher), this individual should be seated out of the child's line of sight to avoid criticism that the child was reacting to nonverbal signals from a trusted adult. In addition, the interviewer should instruct the support person that only the child is allowed to talk unless a question is directed to the support person.

## **Video or Audio Recording and Documentation**

The Governor's Task Force on Child Abuse and Neglect supports as best practice the video recording of investigative forensic interviews of children at child advocacy centers or in similar settings. If your county video or audio records, follow the procedures suggested below.

A designated person should write on the recording label the interviewer's name, the child's name, the names of any observers, and the location, date, and time of the interview. Michigan law states, in part, that the video recorded statement shall state the date and time that the statement was taken; shall identify the persons present in the room and state whether they were present for the entire video recording or only a portion of the video recording; and shall show a time clock that is running during the taking of the statement (see Appendix, Video Recording Laws). All persons present in the interview room should be clearly visible to the camera and positioned so as to be heard. Rooms should be large enough to place video recording equipment at an acceptable distance from the child, but not so large that a single camera (or a two-camera setup) cannot monitor the entire room. Recording reduces the need to take notes during the interview. However, the interviewer may bring a list of topics to be discussed during the interview and may jot down notes during the interview to help remember which points need to be clarified.

If the interview is not being video or audio recorded, it is paramount that the interviewer or a designated person accurately document what the child says. Beginning with introducing the topic, the interviewer should try to write down the exact wording of each question as well as the child's exact words. It is efficient to use abbreviations for common open-ended prompts (e.g., "TWH" for "then what happened" or "TMM" for "tell me more").

## **The Physical Setting**

*the interview room should be friendly but uncluttered and free from distracting noises and supplies*

The best environment for conducting forensic interviews is a center specifically equipped for this purpose. Centers often have comfortable waiting rooms with neutral toys and games, as well as interviewing rooms with video and audio links to observation rooms. The interview room should provide a relaxing environment that is not unnecessarily distracting to young children.

Interviewers who do not have access to an interviewing facility should try to arrange a physical setting that recreates some of the important features of specialized centers. First, select the most neutral location possible. For example, if the interview must be conducted in the home (in an emergency or if the child is preschool age or on school break), select a private location away from parents or siblings that appears to be the most neutral spot. Similarly, a speech-and-language room in a school might be a better choice than the principal's office because children often believe they are in trouble when they are called to the main office. Also, children may worry about being interviewed in a police station, and thus they might benefit from an explanation about why they are being interviewed there (e.g., "We like to talk to children over here because the rooms are nice and bright, and we won't be disturbed").

Second, select locations that are away from traffic, noise, or other disruptions. Items such as telephones, cell phones, televisions, and other potential distractions should be temporarily turned off.

Third, the interview room should be as simple and uncluttered as possible. Avoid playrooms or other locations with visible toys and books that will distract children. Young children are usually more cooperative in a smaller space that does not contain extra furniture. Moreover, children pay more attention when attractive items such as computers are temporarily removed from the interview space.

## **Interviewer Guidelines**

Several guidelines about interviewer behavior, demeanor, and communication should be followed throughout the interview (adapted with permission from Poole & Lamb, 1998):

- Avoid wearing uniforms or having guns visible during the interview.

*be relaxed and avoid emotional reactions to a child's description of abuse*

- Convey and maintain a relaxed, friendly atmosphere. Do not express surprise, disgust, disbelief, or other emotional reactions to descriptions of the abuse.
- Avoid touching the child.
- Do not use bathroom breaks or drinks as reinforcements for cooperating during the interview. Never make comments like "Let's finish up these questions and then I'll get you a drink."
- Respect the child's personal space.
- Do not stare at the child or sit uncomfortably close.
- Do not suggest feelings or responses to the child. For example, do not say, "I know how *hard* this must be for you."
- Do not make promises. For example, do not say, "Everything will be okay" or "You will never have to talk about this again."
- Acknowledge and address the child's feelings if the child becomes upset, embarrassed, or scared, but avoid extensive comments about feelings. Comments such as "I talk with children about these sorts of things all the time; it's okay to talk with me about this" can be helpful.
- Do not make comments such as "good girl" or "we're buddies, aren't we?" that might be interpreted as reinforcing the child for talking about abuse issues. Supportive comments should be clearly non-contingent; in other words, encouragements should not be based on the child talking about specific types of issues. The best time to encourage children is during initial rapport building and at the close of the interview, after the conversation has shifted to neutral topics.
- Do not use the words "pretend" or "imagine" or other words that suggest fantasy or play.
- Avoid asking questions about why the child behaved in a particular way (e.g., "Why didn't you tell your mother that night?"). Young children have difficulty answering such questions and may believe that you are blaming them for the situation.
- Avoid correcting the child's behavior unnecessarily during the interview. It can be helpful to direct the child's attention with meaningful explanations (e.g., "I have a little trouble hearing, so it helps me a lot if you look at me when you are talking so that I can hear you"), but avoid correcting nervous or avoidant behavior that is not preventing the interview from proceeding.

- Ask the child to repeat the comment if you have difficulty understanding what the child said. Use phrases such as “What did you say?” or “I couldn’t hear that, can you say that again?” instead of guessing. (That is, do not say “Did you say [word or phrase you thought you heard]?”). Young children will often go along with an adult’s interpretation of their words.
- Be tolerant of pauses in the conversation. It is appropriate to look away and give the child time to continue talking. Similarly, it is often helpful to take a few moments to formulate your next question.
- Avoid giving gifts to the child.



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## The Phased Interview

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Most current protocols advise interviewers to proceed through a series of distinct interviewing stages/phases with each phase accomplishing a specific purpose.<sup>1</sup> The goals of empowering children to be informative and minimizing suggestive influences are accomplished by three major guidelines:

- Interviewers clearly explain their jobs and the ground rules for the interview.
- Interviewers build rapport in a way that invites children to talk.
- Interviewers encourage children to describe information using the children's own words.

Some investigations require more than one interview with a child. Interviewers should introduce themselves, spend time establishing rapport, and address interview ground rules even when children have participated in a previous forensic interview.

This Protocol describes the general structure of a phased interview but does not dictate which specific questions interviewers will ask. Although the series of phases is specified, the structure gives the interviewer flexibility to cover any topics the investigative team determines are relevant, in any order that seems appropriate.

### Phases

- Prepare for the Interview.
- Introduce Yourself and Start Building Rapport.
- Establish the Ground Rules.
- Conduct a Practice Narrative.
- Introduce the Topic.
- Elicit a Free Narrative.
- Question, Clarify, and Test Hypotheses.
- Close the Interview.

*a summary of the interview (see Quick Guide #3: Overview of a Phased Interview)*

When necessary, these phases can be varied to accommodate children's initial comments, their ages, and their levels of cognitive development. For example, some children begin to discuss allegations without prompting. In

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<sup>1</sup> See End Notes

such cases, the interviewer should not interrupt until it is clear that the child has finished giving a free narrative. Moreover, placement of the ground rules is flexible, and interviewers can remind children about the ground rules at any point during the interview. Some interviewers prefer to establish the ground rules before building rapport. This gives them a chance to review the rules during informal conversation. However, small children may not keep ground rules in mind throughout the interview, so some interviewers introduce the ground rules after initial rapport building conversation.

## **Prepare for the Interview**

*(see Quick Guide #6:  
Guidelines for Use of Physical  
Evidence)*

There are several things an interviewer should do when preparing for an interview:

- Gather background information.
- Generate alternative hypotheses and hypothesis-testing questions.
- Set up the interview environment.

Pre-interview preparation will vary depending on the nature of the allegations, the available resources, and the amount of time before an interview is conducted. If physical evidence is available, the interviewer should consult with the investigative team to consider several issues before deciding whether or not to use the physical evidence during the forensic interview.

## **Gather Background Information**

It is more important to collect background material when the child is preschool age, when the allegations are based on ambiguous information (such as sexual acting out), or when factors such as medical treatment or family hostilities might complicate the investigation. Relevant information can be obtained from a variety of sources, including children's protective services files, police reports, and collateral interviews with the reporting person and/or family members.<sup>2</sup>

*interviewers tailor their interview preparations to the needs of each case, collecting information that will help build rapport with the child and help test alternative hypotheses about the meaning of the child's comments*

The following list illustrates the types of information that might be useful for interviews about child sexual abuse allegations (adapted with permission from Poole & Lamb, 1998):

- The child's name, age, sex, and relevant developmental or cultural considerations (e.g., developmental delay, hearing or speech impairment, bilingualism).

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<sup>2</sup> See End Notes

- The child's interests or hobbies that could be used to develop rapport.
- Family composition/custody arrangements.
- Family members' and relevant friends' or caregivers' names (especially how the child refers to significant others, with special attention to nicknames and duplicate names).
- Caregiving environments and schedules, with the child's names for these environments.
- Relevant medical treatment or conditions (e.g., genital rashes, assistance with toileting, suppositories, or recent experiences with rectal thermometers).
- Family habits or events related to allegation issues (e.g., showering or bathing with the child, a mother who allows children in the bathroom while she changes tampons, physical play, or tickling).
- The content of recent sex education or abuse prevention programs.
- The family's names for body parts.
- The nature of the allegation and circumstances surrounding the allegation.
- Possible misunderstanding of the event.
- Possible motivations for false allegations (e.g., family or neighborhood hostilities that predate suspicions of inappropriate behavior).

### **Generate Alternative Hypotheses and Hypothesis-Testing Questions**

*interviewers consider alternative hypotheses and plan questions to test these hypotheses (see Quick Guide #1: Alternative Hypotheses Questions and Planning Form)*

Forensic interviews are hypothesis-testing rather than hypothesis-confirming. Interviewers prepare by generating a set of alternative hypotheses about the source and meaning of the allegations. Interviewers should plan the following (Poole, 2016):

- Questions to test alternative hypotheses about how the allegations arose (primary-issues hypothesis testing).
- Questions to test alternative interpretations of words the child uses to describe important event details (disambiguation).

For example, if there is an allegation that a babysitter touched a child in a sexual way, an alternative hypothesis is that the touching occurred during routine caregiving (such as wiping after a bowel movement). In this case, after the child states that he or she was touched on the butt by the babysitter, the question "What were you doing when the babysitter touched you on the butt?" could be the first of a series of questions to

determine if the babysitter was cleaning the child. Similarly, if the child allegedly told her mother about a “butt licking game,” the question “Who plays the butt licking game?” could test the hypothesis that the game is a joke about the family’s new puppy.

### **Set Up the Interview Environment**

The interviewer should remove distracting material from the room and position the chairs and recording equipment before introducing the child to the interview room. It is a good idea to be sure that the child has had a recent bathroom break and is not hungry before beginning the interview. Avoid scheduling an interview at the child’s nap time. (See: The Physical Setting on page 4.)

### **Introduce Yourself and Start Building Rapport**

The purpose of the introduction is to acclimate the child to the interview, modeling a relaxed and patient tone that will be carried throughout the interview. Sometimes a child was not informed or was misinformed by a parent or caregiver about the circumstances of the interview. When this happens, the child is often confused about the purpose of the interview or worried that they are in trouble. Moreover, children take time to adjust to new environments and may be temporarily distracted by the sights and sounds of the interviewing room.

*children pay more attention when they are familiar with the environment and have some understanding about what will happen*

After the child and the interviewer are seated, the interviewer begins by giving a brief explanation of the interviewer’s job. Introductions can be brief or long, depending on the child’s age and how relaxed the child appears. Here is a simple example:

“Hello, my name is [interviewer’s name]. My job is to listen to kids. Today is my day to listen to you.”

Children might be confused about being questioned by a police officer or other professional, so interviewers are free to explain more about their job (e.g., “Do you know what a social worker/police officer does? Well, part of my job is to talk with children and to help them. I talk with a lot of children in [name of town]”). If children seem apprehensive, it is appropriate to provide some orienting information about the interview (e.g., “I talk with a lot of children about things that have happened. We are going to talk for a while and then I’ll take you back to the other room where your mom [dad, etc.] is waiting for you”). The interviewer may want to talk informally to get to know the child.

If the interview is being recorded, the interviewer tells the child about the equipment and the purpose of the recording. The child should be given an opportunity to glance around the room, and school-age children could be allowed to inspect the recording equipment if they choose. The following is an example:

“As you can see, I have a video camera/recorder here. It will record what we say. Sometimes I forget things and the recording helps me remember what you said.”

There are varying views about whether or not to introduce the child to observers or let the child view the observation room before the interview. Generally, children have no concerns or objections with being recorded or observed.

*building rapport begins with the initial introduction and continues throughout the interview*

Building rapport begins with the initial introduction and continues throughout the interview. Appearing relaxed, friendly, and interested allows the interviewer to engage with the child. In daily conversations, adults tend to dominate conversations with children by asking numerous specific questions. Many children therefore expect that interviewers will ask a lot of questions and that their job is to respond to each one with a short answer. The purposes of rapport building are to:

- Make the child comfortable with the interview setting.
- Gather preliminary information about the child’s verbal skills and cognitive maturity.
- Convey that the goal of the interview is for the *child* to talk.

*use open-ended prompts that invite the child to talk*

Transcripts of investigative interviews show that many interviewers build rapport by asking questions about the child’s teacher, family, and likes or dislikes. Although such questions can be useful for starting the interview, questions that can be answered in one or two words may lead the child to expect that the interviewer will control the conversation. During early conversations, questions that invite the child to talk (e.g., “Tell me about your family”) are better than more focused questions (e.g., “How many brothers and sisters do you have?”).

During early rapport building, the interviewer can encourage a reluctant child with comments such as “It is okay to start talking now” or “This is your special time to talk. I want you to be the talker today and I’ll listen.” Smiling, leaning toward the child, using the child’s name, expressing interest and

encouraging effort during early conversation (“I really want to know you better,” “Thank you for letting me listen,” Ahern et al., 2014, p. 776) create a supportive atmosphere that can help children be more forthcoming (Hershkowitz et al., 2014).

## Establish the Ground Rules

There are four main ground rules to establish:

- **Don’t guess at answers.**
- **Tell me if you don’t understand something I say.**
- **Correct me if I make a mistake.**
- **Tell the truth.**

Studies have shown that children sometimes try to answer questions even when they have no basis for answering or the questions do not make sense. Also, children often fail to correct interviewers who misunderstand what they say. During the Establish the Ground Rules Phase, the interviewer motivates the child to answer accurately with a series of simple instructions as in the following examples:

*allow the child to demonstrate understanding of the rules with simple practice questions*

**Don’t guess.** “Now that I know you better, I want to talk about some rules we have in this room. One rule is that we don’t guess. If I ask a question and you don’t know the answer, just say, ‘I don’t know.’ For example, what is my dog’s name?” [Wait for answer.] “That’s right, you don’t know my dog’s name, so ‘I don’t know’ is the right thing to say. Will you promise not to guess at answers?” (See Brubacher et al., 2015, for a review of ground rules instructions.)

*the word gridelin means a color containing white and red, or a gray-violet color*

**Tell me if you don’t understand.** “Another rule is that if I say something you don’t understand, you should tell me you don’t understand. For example, is my shirt gridline? [Wait for child to say, “I don’t know what that means.”] “Thank you for telling me you didn’t understand. I’ll ask you a different way. What color is my shirt? Will you tell me when you don’t understand something?”

**Correct me if I make a mistake.** “Sometimes people say something wrong by mistake. If I say something wrong, I want you to tell me. For example, how do you like being 10 years old (to a 6-year-old)?” [Wait for answer.] “That’s right; you’re not 10 years old, so I’m glad you told me. Will you correct me if I say something wrong?”

As part of the Establish the Ground Rules Phase, interviewers should discuss truth/lies and obtain verbal agreement from children that they intend to tell the truth. The purpose of discussing truth/lies is to motivate children to provide accurate

descriptions and report only events that really happened (Lyon et al., 2008). A discussion of truth/lies can be delayed until the interviewer has built rapport with the child, or omitted if a supervisor advises against these questions.

*use concrete statements, such as, “I am sitting. Is that true or not true (a lie)?”, rather than abstract questions, such as “What does it mean to tell the truth?”*

The interviewer starts the discussion of truth/lies by demonstrating that the child understands the difference between the truth and a lie, and the importance of telling the truth. This is accomplished by asking the child to label statements as “true” (“right”) or “not true” (“a lie” or “wrong”), after which the interviewer asks for verbal acknowledgement that the child will tell the truth. The interviewer should avoid asking the child to define these concepts with questions such as “What does it mean to tell a lie?” or “Can you tell me what the truth is?” These questions are difficult for children to answer and often lead to confusion. Questions like the ones that follow complete the Establish the Ground Rules Phase:

**Truth/lies.** “I need to make sure you know what the truth is. I’m sitting down right now. Is that true or not true (a lie)?” [Wait for answer.] “That’s right; I *am* sitting down, so sitting down is the truth. You are running right now. Is that true or not true (a lie)? That’s right, you are sitting, so saying you are running is not true (a lie). I see you understand what the truth is. This room is a place where you should always tell the truth. While we are talking today, it is important to tell me the truth—what really happened. Will you tell me the truth today?”

## **Conduct a Practice Narrative**

*ask the child to describe a recent event from beginning to end*

There are four general principles for an interviewer conducting a practice narrative:

- Elicit information using only open-ended prompts that invite the child to provide multiple-word responses, such as, “Tell me everything about [child’s neutral event]” and “What happened next?”
- Use “still your turn” feedback (also called facilitators) to encourage the child to talk during this phase of the interview. These behaviors include head nods, exclamations (e.g., “Ohhhh”), and partial repetitions of the child’s last comment (e.g., Child: “And then he opened my present by mistake.” Interviewer: “He opened your present”). During this phase, the interviewer can also provide more direct encouragement (e.g., “You told me a lot about your birthday; I know a lot more about you now”).
- Reinforce the ground rules.

*use open-ended prompts, such as “and then what happened?”*

A practice narrative helps children understand and respond to the expectation that *they* are the information providers. Also, asking children to describe a neutral event gives the interviewer opportunities to revisit important ground rules. One way to conduct a practice narrative is to identify (during interview preparation) a specific event that the child recently experienced (or experienced around the time of the alleged abuse). Events used to train the child to talk could be a birthday party, a recent holiday celebration, an event at school, or a significant family event (e.g., getting a new puppy). The interviewer asks the child to describe this event in detail, using open-ended prompts, and conveys interest with everything the child has to say, as in the following example (Orbach et al., 2000):

*encourage the child to talk by showing interest and by not interrupting*

- “A few days ago (or a few weeks ago) was your birthday (Thanksgiving, Christmas, etc.). Tell me about your birthday (Thanksgiving, Christmas, etc.).”
- “I want you to tell me all about your birthday (Thanksgiving, Christmas, etc.). Think again about your birthday and tell me what happened from the time you got up that morning until the time you went to bed that night (or some incident or event the child mentioned).”
- “Then what happened?”
- “Tell me everything that happened after [incident mentioned by the child].”
- “Tell me more about [something the child just mentioned].”

*children who have little to say about specific events may be able to describe a repeated, scripted event*

Young children often have little to say about one-time events. If this is the case, it can be helpful to ask the child to describe a recurring, scripted event. A script is a general description of repeated events, such as what the child does to get ready for school each morning, what happens during a trip to the child’s favorite fast-food restaurant, or how the child plays a favorite game. The following are examples designed to elicit scripted events:

- “I’d like to get to know more about you and your family. Tell me what you do every morning when you wake up.” If further prompts are necessary, a child may be asked “Tell me what you do to get ready to go to school. Then what do you do? What do you do next?”
- “I talk with a lot of children, and most of them really like to get hamburgers or pizza at their favorite restaurant. Do you have a favorite place to eat?”



Good. Tell me everything that happens when you take a trip to [restaurant] to eat [food]. How do you get there? Then what happens?”

To engage a reluctant child, it may be helpful to express interest in a topic the child is an “expert” on and ask them to tell you about the topic:

“I talked with your mom yesterday and she said you really like to play [soccer, baseball, video games]. I don’t know much about playing [game child likes], but I’ve heard a lot about it. Tell me all about [game child likes].”

Before ending the Practice Narrative Phase, the interviewer can collect useful background information, such as the child’s names for caregivers or friends (National Child’s Advocacy Center, 2014). By placing these questions after a practice narrative, conversation will transition seamlessly into the case issues phases should the child spontaneously begin talking about the matter under investigation. This inquiry is also a simple way to prolong rapport-building with an usually quiet child (Hershkowitz et al., 2006; Orbach et al., 2007).

Interviewers who collect background information select questions that meet case needs as in the following examples:

- “I’d like to know more about where you live and who lives with you. [Child’s name], do you live in an apartment, a house, or something else?”
- “Tell me all of the people who live there with you.”
- “Does someone else live with you?” [Repeat until the child says “no”].
- “Is there another place where you stay when you are not [at home with your mom, in school, etc., and repeat until the child says “no”]?”
- “Tell me about the people at [child’s name for caregiving environment].”
- “Does someone else ever take care of you when [your mom, your dad, etc.] is gone?”
- “Is there someone else who also takes care of you?” [Repeat until the child says “no.”] (Poole, 2016, p. 104).

Here the interviewer can address topics that might prevent misunderstandings later in the interview or topics that might require exploration later in the interview. For example, questions about peers are useful when there is concern that an allegation might have been influenced by peers or if peers might also be victims.

## Introduce the Topic

The alleged abuse portion of the interview begins when the interviewer prompts a transition to the target topic. Here are some transition examples:

- “Now that I know you a little better, it’s time to talk about something else.”
- “Now that we know each other a little better, I want to talk about the reason that you are here today.”
- “Now it’s time to talk about something else.”

The interviewer should start with the least suggestive prompt that might raise the topic, avoiding mention of particular individuals or abuse:

*start with the least suggestive prompts that might raise the topic of abuse (see Quick Guide #7: Introducing The Topic)*

- “Tell me the reason you are here today.”
- “Do you know the reason I came to talk with you?”

If the child does not respond to these neutral prompts, the interviewer progresses to more specific opening remarks, still avoiding mention of a particular behavior. Also, it is best to avoid words such as *hurt*, *bad*, *abuse*, or other terms that project adult interpretations of the allegation. For example, an interviewer should not introduce the topic of sexual abuse using the terms “good touch or bad touch.” Examples include the following:

- “I understand something has been bothering you.”
- “Does your mom think that something has been bothering you?”
- “I understand there are some problems in your family [at camp, etc.]. Tell me about them.”
- “I know that you had to move recently, and Mr./Mrs. [name of caregiver] is taking care of you now. Tell me how that happened.”
- “I heard you visited the doctor yesterday. Tell me about visiting the doctor.”
- “I see you have a cast on your arm. What happened?”
- “I understand that the police came to your house last night. Tell me what happened.”
- “I understand you were playing with someone yesterday and your teacher wanted you to stop playing. Tell me about that.”

Some interviewers use the techniques listed below when children fail to respond to the above invitations:

- Ask what the child's favorite thing and least favorite thing is about various people in the child's life (Morgan, 1995).
- Ask "Who are the people you like to be with?" and "Who are the people you don't like to be with?" (Yuille, et al., 1993).
- Explore the topic indirectly by asking "Is there something you are worried about if you talk with me today?"
- Give the child more control over the interview by changing the seating, removing a second interviewer, or letting the child write an initial answer on paper.
- Ask "Is there something that would make it easier for you to talk with me today?"

*(see Quick Guide #4:  
Hierarchy of Interview  
Questions)*

The goal of these techniques is to avoid asking the child a direct question, such as "Did somebody touch your privates last week?" Research shows some children (particularly preschoolers and children who have heard events discussed by adults) will say "yes" to these direct questions even when the events have not occurred (Myers et al., 2003; Poole & Lindsay, 2001). Consequently, answers to direct questions are less informative than answers to open-ended questions. Furthermore, direct questions about touching may elicit responses about routine caregiving (e.g., bathing, temperature-taking) or other sources of knowledge (e.g., information from a recent sexual abuse prevention program) that could escalate into false allegations, especially when these questions are followed by numerous specific questions. If the interviewer asks a direct question, it is important to shift to open-ended questions that encourage the child to describe events in his or her own words.

*closing the interview  
without a report of abuse  
is an acceptable outcome*

Closing the interview without a report of abuse is an acceptable outcome. There are many reasons why a child may not disclose: because the abuse didn't occur, because the child is frightened or does not want to get a loved one in trouble, or because the event was not especially memorable and the child is not recalling the target event at this particular moment.

## **Elicit a Free Narrative**

After the topic is raised, the interviewer asks the child to provide a narrative description of the event. Research shows that children's responses to open-ended prompts are longer and more detailed than responses to focused questions (e.g., Lamb et al., 2008; Orbach & Lamb, 2000). Also, responses to open-ended prompts are typically more accurate because children sometimes answer questions requesting specific details even when they do not remember relevant information. **The most**

**common interviewer errors are omitting the Elicit a Free Narrative Phase or shifting prematurely to specific questions.** Instead of asking the child to talk about the event and then shifting to the Question, Clarify, and Test Hypotheses Phase, the interviewer should prolong the Elicit a Free Narrative Phase with numerous open-ended prompts, such as “And then what happened?” and “Tell me more about [child’s words for an event].”

To elicit a free narrative, the interviewer simply tacks on an open-ended broad prompt (also called an invitation) after the topic is raised:

- “What happened?”
- “Tell me everything you can about [refer back to child’s statement].”
- “Tell me all about [refer back to child’s statement], from the very beginning to the very end.”

*encourage the child to describe the event in the child’s own words by using open-ended invitations such as, “tell me everything about [refer back to child’s statement]”*

After the child begins talking, the interviewer should be patient about pauses in the conversation and not feel pressured to jump to the next prompt right away. Because continued silence can exert a subtle but gentle pressure on the child to respond, the interviewer should deliver the next prompt only when it is clear that the child is done responding.

The interviewer encourages the child to expand on the initial free narrative response with two types of open-ended prompts (Powell & Snow, 2007):

- Open-ended breadth prompts ask the child to tell more about an event.
  - Then what happened?
  - What happened next?
  - What else happened?
- Open-ended depth prompts (also called cued invitations) ask the child to discuss something the child already mentioned.
  - Tell me more about [child’s words].
  - Tell me more about the part where [child’s words].
  - What happened when [child’s words]?
  - You said [child’s words]. Tell me everything about that.

The interviewer can also motivate the child with neutral acknowledgments (such as “Uh huh”), by repeating the child’s comments (e.g., “He turned on the TV. Then what

happened?”), by giving permission to talk about target issues (e.g., “It’s okay to say it”), and by reminding the child that the interviewer is used to talking about such things (e.g., “I talk with a lot of children about these sorts of things. It’s okay to tell me all about it.”).

*Be tolerant of pauses in the conversation*

If a child becomes non-responsive or upset, acknowledge the child’s behavior and address it but avoid extensive comments. Give the child time to respond or to regain composure. If a child remains non-responsive, it may help to gently tell the child “You’ve stopped talking” or “I’m still listening.” If a child remains upset, it may help to restate the child’s last statement or say, for example, “I see you are crying. Tell me what’s going on.”

Children often make comments that adults do not understand or refer to people who have not yet been identified. Interrupting the child to request an immediate clarification may inhibit the child from talking. It is better to encourage the child by using general prompts such as “Then what happened?” before entering the Question, Clarify, and Test Hypotheses Phase. Interviewers can jot down short notes while the child is talking to remind themselves to revisit specific information later in the interview.

## **Question, Clarify, and Test Hypotheses**

*(see Quick Guide #2: Guidelines for Questioning Children; Quick Guide #4: Hierarchy of Interview Questions; and Quick Guide #5: Exploring Issues with Open-Ended Prompts and Question Frames)*

The Question, Clarify, and Test Hypotheses Phase begins after it is clear that the child has finished providing a free narrative. This phase is the time to clarify the child’s comments and seek legally relevant information. The interviewer should consider how directly a child should be prompted by taking into consideration the amount of corroborating evidence and risks to the child’s safety. The interviewer may want to consult with their investigative team.

The interviewer should avoid jumping from topic to topic. In general, it is best to build the questions around the child’s free narrative. For example, if the child reported a single event, the interviewer would clarify information about that event before asking whether there have been other similar events.

During the Question, Clarify, and Test Hypotheses Phase, the interviewer should clarify:

- Descriptions of events.
- The identity of the perpetrator(s).
- Whether allegations involved a single event or multiple events.
- The presence and identities of other witnesses.

*(see Quick Guides #8: Physical Abuse and Neglect Questions, Quick Guide #9: Sexual Abuse Questions, and Quick Guide #10: Interviewing About Repeated Similar Events)*

- Whether similar events have happened to other children.
- Whether the child told anyone about the event(s).
- The time frame and location/venue.
- Alternative explanations for the allegations.

Other topics may be important, depending upon the specific case, such as descriptions of physical evidence retrieved from the crime scene (e.g., a description of cameras if pictures were taken). However, the interviewer should avoid probing for unnecessary details. For example, it may not be essential to get a detailed description of an alleged perpetrator if the accused is someone familiar to the child (e.g., a relative or teacher). Although it is useful if the child can recall when and where each event occurred, children may have difficulty specifying this information if they are young, if the event happened a long time ago, or if there has been ongoing abuse over a period of time. (See Special Topics on page 25 for a discussion of general guidelines for investigating the time element in child criminal sexual conduct cases.)

Because children usually volunteer only a portion of what they remember in response to each question or prompt, it may take a series of prompts to elicit complete descriptions of individual events and details. For example, if a child mentions that a man showed her “a bad cartoon,” the interviewer should begin with an open-ended question such as “You said something about a bad cartoon. Tell me about the cartoon.” In order to gain further details, the interviewer may have to ask questions such as “What did the cartoon look like?”, “Did he show you one cartoon or more than one cartoon?”, “Tell me what the second cartoon looked like”, and “Was the cartoon on paper, on a computer, or something else?”

*use the least suggestive question possible, attempting to obtain a complete description of one event before shifting to a different topic (see Quick Guide #4: Hierarchy of Interview Questions)*

The interviewer should always use the most open-ended questions possible while questioning and clarifying. If a specific question is necessary to raise an issue, the interviewer should follow it up with an open-ended prompt. For example, if objects were retrieved from the scene of the alleged event, the question “Did he bring anything with him when he came to see you?” could elicit a response like “He brought some clothes for me to wear.” In this case, “Tell me about the clothes” is more open than “What color were the clothes?” This practice of asking focused questions paired with open-ended follow-up prompts is sometimes called the questioning cycle (Poole, 2016) or pairing (Lamb, La Rooy, Malloy, & Katz, 2011).

Following the terminology used in the *Memorandum of Good Practice* (Home Office, 1992), questions can be ordered along a continuum from least suggestive (open-ended questions) to most suggestive (leading questions). The following hierarchy describes this progression of question types. Interviewers should try to use questions at the top of the hierarchy and avoid leading questions altogether (See Quick Guide #4: Hierarchy of Interview Questions).

*when prompting the child to tell you “everything,” be aware that delayed disclosure and disclosure in stages can occur*

**Open-ended prompts** (also called invitations and free-narrative prompts) allow children to select which details they will report and generally require multiple- word responses. Open-ended prompts ask children to expand, (e.g., “You said dad hit you with a belt. Tell me everything about dad hitting you with a belt”), provide physical descriptions (e.g., “Tell me about the belt”), and clarify apparent contradictions (e.g., “You said you were alone, but then you said your mom heard you talking. I’m confused about that. Help me understand”).

*obtaining complete information in one interview may not always be possible*

Open-ended prompts can also elicit information about physical surroundings and conversation. For example, even preschoolers can respond accurately to the following prompts (Poole & Lindsay, 2001, 2002):

- “Sometimes we remember a lot about how things looked. Think about all the things that were in the room where [child report of event]. Tell me how everything looked.”
- “Sometimes we remember a lot about sounds and things that people said. Tell me all the things you heard when [child report of event].”

**Specific but non-leading questions** (also called directives and recall-detail questions) ask the child to recall a detail about something that was already mentioned, and these questions can be answered with a word or brief comment. Specific but non-leading questions might ask about the context of an event (e.g., “Tell me what you were doing when [event child described]”), request clarification (e.g., “You said ‘Bob.’ Who is Bob?”), or ask about a specific detail (e.g., “What color was the towel?”).

**Closed questions** (also called option-posing questions) provide only a limited number of response options. Multiple-choice questions and yes-no questions are closed questions. These questions are more risky than open-ended or specific but non-leading questions because children sometimes feel they should choose one of the options. Therefore, responses

to these questions are generally less accurate than responses to more open-ended questions. If the interviewer wants to confirm a specific detail of an allegation and the child seems confused by open-ended or specific questions, it is best to delete the correct answer from a multiple-choice question. If an event allegedly happened in the bathroom, for example, the interviewer might ask, “Did that happen, in the bedroom, the kitchen, or in another place?” Closed questions should be followed by open-ended questions to show that the child can provide information spontaneously. Because yes-no questions are considered inherently leading by some experts, such questions should be used with caution, particularly with preschoolers. When yes-no questions are deemed necessary, it is useful to remind children that they should not guess. Interviewers should follow up with an open-ended question or prompt.

**Leading questions** imply an answer or assume facts that might be in dispute. Determination of whether a question is leading depends upon a host of variables, including the child’s age, the child’s maturity, and the tone of voice of the interviewer (Fallon & Pucci, 1994). Tag questions, such as “And then he touched you, didn’t he?”, are explicitly leading, as is any question that includes information the child has not yet volunteered.

During this phase, the interviewer should continually monitor that the child’s statements are unambiguous. If the child talks about “grandpa,” for example, the interviewer should determine which individual is being discussed (e.g., “Which grandpa?”, “Does grandpa have another name?”, “Do you have one grandpa or more than one grandpa?”). Similarly, if the child uses an unusual word (e.g., “my hot dog,” “my tushee”), the interviewer should attempt to clearly identify what that word means to the child (e.g., “Tell me what your hot dog is”).

*young children may stray off topic and begin to discuss other events during this phase of the interview*

If young children stray off topic and begin to discuss other events during this phase of the interview, it is important that the interviewer reiterate the topic under discussion. For example, it is very helpful to begin questions with identifying comments such as “About this time in the kitchen with Uncle Bill, [referring back to child’s statement].” If the child reports new or unusual information, it is best to ask something like “Are you talking about that time Uncle Bill grabbed your privates, or is this another time?” It is easier for children to stay on topic if the interviewer warns the child when the topic is shifting (e.g., “I’m confused about that time in the park. Let



me ask you something about that”). Another strategy to avoid confusion is to verbally label events that the interviewer might want to return to later in the interview (e.g., “Okay, let’s call that the kitchen time”) (Brubacher et al., 2013; Yuille et al., 1993).

*ask questions in an order corresponding to the sequence of the child’s free narrative*

The interviewer should avoid covering topics in a predetermined order. Instead, it is better to follow the child’s train of thought and ask questions related to the child’s narrative. In sexual abuse cases, the interviewer may need to ask whether the alleged event happened one time or more than one time, whether the child has knowledge that other children had a similar experience, and whether other individuals were present. Before ending this phase, the interviewer can check that the child has nothing else to say. For example, if a child made a disclosure, asking “Is there something else you’d like to tell me about [event the child described]?” or “Did I forget to ask you anything?” can be helpful. Lastly, all references to people and events should be clarified to ensure there is only one interpretation of the child’s statements.

During the Question, Clarify, and Test Hypotheses Phase, the interviewer listens to the child, mentally reviews the information already provided, makes decisions about further questioning, explores alternative hypotheses, and decides when to close the interview. Interviewers should maintain a relaxed manner and feel free to take a few minutes to collect their thoughts before deciding how to proceed. If there is a second interviewer or team members in an adjoining observation room, the interviewer can ask these individuals whether or not they have any additional questions before closing the interview. Consultations with team members (a short interview break) can occur at the end of the Question, Clarify, and Test Hypotheses Phase or any time a child’s behavior or responses pose challenges for the interviewer.

## **Close the Interview**

There are two major objectives for the closing phase of the interview:

- Answer questions from the child.
- Revert to a neutral topic to wind down the interview.

Regardless of the outcome of the interview, interviewers should ask children if they have any questions. It is important to answer questions truthfully and to avoid making promises (for example, saying that the child will not have to talk about the abuse again). When children ask about the interviewer’s life

(e.g., “Did this happen to you too?”), the interviewer can address the concern without disclosing personal information (e.g., “Everyone, including me, has had things happen that they did not like or things that were upsetting” (Saywitz & Comparo, 2014, p. 151).

It is appropriate to chat about neutral topics for a few minutes in order to end the interview on a relaxed note. The interviewer can return to topics discussed while building rapport and in the practice narrative. The interviewer can thank the child for coming but should be careful not to specifically thank the child for disclosing abuse.

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## Special Topics

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### Questions about Time

There are several reasons why it can be very difficult for children to describe *when* an event happened. In their language development, children learn words that mark temporal relationships only gradually. Three-year-olds, for example, often use “yesterday” to mean “not today,” and the words “before” and “after” are poorly understood before 7 years of age or even older (Walker, 2013). Regarding temporal concepts, children’s understanding of dates and clock time is limited before 8-10 years of age. Often, children simply fail to remember exactly when target events occurred. Memory failure is common when events occurred a long time ago and when there were many similar events.

Interviewers should try to identify when events occurred, but young children sometimes answer inaccurately when questions demand details they cannot provide. For example, children sometimes try to answer questions about the day of the week or the time of day even when they are uncertain. Therefore, interviewers should try to determine when events occurred by asking about the context of the events. General questions about what grade the child was in, how old the child was, or whether it was summer vacation can narrow down the time. Similarly, knowing that the child was playing with a toy received for Christmas will date the event after Christmas, and questions about what TV show the child was watching will identify a time of day. Some interviewers ask children to point to a “time line” that contains pictures of holidays and other events, but there is no evidence that preschool children report the timing of past events more accurately with this aid than with developmentally-appropriate verbal questions (Malloy & Poole, 2002).

Interviewers should be aware that time is not an element in child criminal sexual conduct cases in Michigan. The Michigan Court of Appeals set forth 4 factors to consider when determining how specific the time of assault must be: the nature of the crime charged, the victim’s ability to specify a date, the prosecutor’s efforts to pinpoint a date, and the prejudice to the defendant in preparing a

defense (*People v. Naugle*, 152 Mich. App 227, 233; 393 NW2d 592 1986).

## **Interviewing Aids**

Interviewers should not use anatomical dolls or body diagrams to elicit disclosures. Most interviews can be successfully conducted without these interviewing aids. Guidelines on anatomical dolls state that children's behavior with dolls is not diagnostic of abuse. Consequently, interviewers can be accused of suggesting sexual themes if they introduce aids before children have mentioned abuse (Dickinson, et al., 2005). Asking children to label body parts and then asking if they have been touched in any of the mentioned places is suggestive, and research has not shown that children's testimonial accuracy is improved when interviewers use body diagrams to elicit disclosures (Poole et al., 2011, Poole & Bruck, 2012, Bruck et al., 2016).

It is less controversial to introduce interviewing aids during the Question, Clarify, and Test Hypotheses Phase of the interview, when aids help to clear up ambiguities in children's reports (Everson & Boat, 2002). If the interviewer deems their use necessary, interviewing aids can be used during the Question, Clarify, and Test Hypotheses Phase.

## **Communication Issues**

Interviewers should identify, during their interview preparation, whether children have special communication issues that require accommodation. Separate developmental assessments are not routinely required or useful, but they may be helpful for children who suffer from a developmental disability or have language limitations that raise questions about their ability to respond accurately to questions.

### **Preschoolers**

Whenever possible, interviews with preschool children should be scheduled for a time of the day when the children are usually alert and have recently had a snack. No special adjustments to the Protocol are required for preschool children, but interviewers should be aware that young children are more likely than older children to answer closed questions when they do not really know the answer. When interviewers use closed questions with young children, it is helpful to demonstrate that they are not simply guessing. For example, omitting the

correct answer from multiple choice questions will reduce concerns about acquiescence.

### **Bilingual Children**

During pre-interview preparation, interviewers should make their best determination of the child's primary language based on information from available sources, such as official records, consultations with parents or school officials, and the child's self-report.

Arrangements should be made for an interpreter of the child's primary mode of communication whenever there is concern that a child faces limitations in understanding or speaking English. An interpreter, if needed, should not be an individual who might have an interest in the outcome of the case. An interpreter should translate exactly (or as closely as possible) what the interviewer and child say during the interview.

### **Augmentative and Alternative Communication (AAC)**

*facilitated communication is not a scientifically supported alternative to speaking or augmentative and alternative communication*

Augmentative and Alternative Communication (AAC) refers to communication systems that help children express themselves when they cannot communicate by producing typical speech or writing. AAC allows children to communicate *independently* through the use of eye gaze, picture boards, computer-based technologies, or other systems. The professional who has had the most contact with the child (and/or the development of the child's communication system) and an independent specialist should be involved in evaluating the needs of a child who communicates via AAC.

Unlike AAC, facilitated communication involves techniques in which adults touch or support children's arms or hands while the children interact with a keyboard or other device. Research clearly demonstrates that information obtained through facilitated communication often reflects the adults' knowledge. Thus, facilitated communication is not a scientifically supported alternative to speaking or AAC (American Academy of Child and Adolescent Psychiatry, 1994; American Psychological Association, 1994).

## **Developmental Disabilities**

Chronic health problems and perceptual, movement, language, cognitive, and emotional disorders can influence a child's ability to participate in a forensic interview. The simplest approach for most children is the developmentally-sensitive, child-centered interview, one in which the interviewer plans procedures that help individuals of all ages understand and respond to questions.

If an initial interview is unsuccessful, and interviewers have the resources, it may be helpful to conduct a second interview, taking a more comprehensive approach to planning for individual needs. For example, it may be helpful to determine the child's primary and secondary diagnoses and educational accommodations (if any) to anticipate the child's strengths and areas of difficulty.

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## Quick Guide #1: Alternative Hypotheses Questions and Planning Form

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During pre-interview preparation, interviewers generate a set of alternative hypotheses about the source and meaning of the allegations. During the Question, Clarify, and Test Hypotheses Phase, interviewers attempt to rule out alternative explanations for the allegations.

There are numerous alternative hypotheses to allegations of abuse and neglect. These include honest mistakes and misunderstandings, unintentional influence of the child, intentional influence of the child, and a child's decision to lie for attention or to achieve another goal. The following are some examples:

- Someone misunderstood the child's statement.
- The child was abused but misidentified the perpetrator.
- An injury was accidental.
- A rash was caused by a medical condition.
- An injury resulted from a medical condition (e.g., falling down from a seizure).
- Touching occurred during routine caregiving.
- The child witnessed, but did not experience, the alleged abuse.
- Repeated questioning made the child believe abuse occurred.
- Someone coached the child to report abuse.
- The child wanted to retaliate against the accused.
- The child made up a story to get out of trouble.
- The child reported sexual abuse to cover for evidence of sexual activity.
- The child lied about abuse or neglect to attempt to change a living or visitation arrangement.
- The child exaggerated about an event to show off to friends.
- The child lied about who the perpetrator was to protect the actual perpetrator.

Below are examples of allegations, alternative hypotheses, and possible ways of testing these hypotheses. *It's important that your test questions be case-specific and updated based on information received during the free narrative.*

### Sexual Abuse Allegation

A 9-year-old girl reported that her stepfather touched her private parts while getting her ready for bed.

#### Hypothesis/Allegation

The girl was sexually abused.

#### Possible Alternative Hypotheses

- The child does not like the stepfather and would prefer to live with her natural father.
- The stepfather has to administer topical medication to the child's privates at bedtime.

### **Test Questions**

- "Tell me what happens when [name child calls stepfather] gets you ready for bed."
- "Is there something you like about spending time with [name child calls stepfather]? Is there something you don't like about spending time with [name child calls stepfather]?"
- "How do you get along with [name child calls stepfather]? How do you get along with your father?"
- "You said your parents are divorced. Who decided that you should live with your mom? Tell me about that."
- "What was your stepfather doing just before he touched you?" After a disclosure of touching.
- "Have you been to a doctor recently? Tell me about that."

### **Sexual Abuse Allegation**

The mother of a 5-year-old girl said that her daughter disclosed sexual abuse after returning from her father's house.

#### **Hypothesis/Allegation**

The girl was sexually abused by her father.

#### **Possible Alternative Hypotheses**

- The girl was led into making a false report by her mother, who questions her daughter after visits to her father's house.
- The mother misunderstood a comment the girl made about a sex abuse prevention video shown in school.

### **Test Questions**

- "Tell me about visiting dad. Tell me some things you like about visiting dad. Tell me some things you don't like about visiting dad."
- "Tell me some things you like about your mom. Tell me some things you don't like about your mom."
- "What happens when you come home from dad's house?"
- "Do you talk to your mom about your visit with dad? Tell me about that."
- "Did you see a video at school about being safe? Tell me about the video."
- "Did you tell your mom about the video? Did you tell your dad about the video?"



- If the answer is “Yes,” explore with “What did you tell your mom (dad) about the video?” or “Tell me all about that.”

### **Child *Recanting* a Prior Abuse Allegation**

A 14-year-old boy claimed that his teacher touched him sexually (e.g., “He touched my butt!”). He later said his comment was an innocent mistake (e.g., “The hallway was crowded and he slid behind me to pass through the line”).

#### **Hypothesis/Allegation**

The boy misspoke or exaggerated when he reported that his teacher had touched him sexually.

#### **Possible Alternative Hypotheses**

- The child was touched inappropriately but is concerned that his teacher will be sent to prison.
- The child was touched inappropriately but is being teased by classmates and is embarrassed.
- The child got a bad grade and initially retaliated by lying about his teacher touching him.

#### **Test Questions**

- “Tell me about your teacher.”
- “How do you get along with your teacher? Is there anything about this situation with your teacher that worries you?”
- “Have any classmates talked to you about this situation with your teacher?” If the child says “Yes,” the interviewer should explore further.”
- “Have any friends or family members talked to you about this situation with your teacher?” If the child says “Yes,” the interviewer should explore further.
- “Have you talked to someone else about your teacher since we last spoke?”

### **Physical Abuse Allegation**

A teacher reported that a 10-year-old boy came to school with a large bruise on the left side of his face. The child is secretive about the cause of the bruise.

#### **Hypothesis/Allegation**

A parent abused the boy.

### **Possible Alternative Hypotheses**

- The injury was the result of an accident (e.g., The child was roughhousing with a sibling or injured while playing sports).
- The child was involved in a fight that could get him in trouble and wants to avoid discipline.
- The bruise was self-inflicted.

### **Test Questions**

- “I see you have a bruise on your face. Tell me how you got the bruise on your face.”
- “What were you doing just before you got the bruise on your face?”
- “Who were you with when you got the bruise on your face?”
- “How do you get along with your brothers/sisters?”
- “What happens at home when you get into trouble?”
- “What happens at school when you get into trouble?”

### **Internet Sexual Exploitation Allegation**

Police found sexually suggestive photographs of a 13-year-old girl on her father’s computer.

### **Hypothesis/Allegation**

The girl’s father is taking pornographic pictures of his daughter and up-loading them onto the computer.

### **Possible Alternative Hypotheses**

- The girl took the pictures herself to send to her boyfriend.
- Someone other than the father took the photographs of the girl.

### **Test Questions**

- “Who uses the computer in your house?”
- “Do you have a camera? Who in your house has a camera?”
- “Do you have a boyfriend? Tell me about him.”
- “Does anyone take pictures of you? Tell me about the pictures.”
- “Have you ever seen these pictures? Where did you see them?”
- “Has anyone else taken pictures like this of you?”
- “Have you ever taken pictures like this of yourself?”

## **Emotional Abuse Allegation**

A teacher reported that the father of a 7-year-old yells at the boy almost every time he picks the child up from school. He makes demeaning comments to the boy, such as “I can’t believe you are my son! I hate you!”

### **Hypothesis/Allegation**

The father is emotionally abusing the boy.

### **Possible Alternative Hypotheses**

- The boy has a father and a step-father; it is the step-father who belittles the boy.
- The teacher had a previous altercation with the father and is embellishing the story.

### **Test Questions**

- "Who lives with you? Tell me all the people in your family."
- "Who usually picks you up from school? Tell me what happens when [person child named] picks you up from school."
- "Tell me something you like about [person child named] picking you up from school. Tell me something you don't like about [person child named] picking you up from school."
- "Does your teacher talk about your father?"

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## Alternative Hypotheses Planning Form

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### Hypothesis/Allegation

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### Possible Alternative Hypotheses

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### Test Questions

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## Quick Guide #2: Guidelines for Questioning Children

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### Strive to Avoid Misunderstandings

- **Don't guess.** If you cannot understand something the child said, ask the child to repeat the comment. Try not to guess with comments such as, "Did you say 'Bob?'"
- **Ask questions to clarify.** Children often make systematic pronunciation errors; for example, *potty* may sound like *body* or *something* may sound like *some paint*. Do not take young children's comments at face value; instead, always try to clarify what the child was saying by asking the child to describe the event fully (e.g., "I'm not sure I understand where he peed; tell me more about where he peed") or asking for an explicit clarification (e.g., "Did you say 'Bob' or 'mom' or something else?").
- **Pronounce words the way an adult does.** When talking, use the usual adult pronunciation for words; do not mimic the child's speech or use baby-talk (Exception: Do use the child's words for body parts).
- **Clarify what the child means by key words.** The child's meaning for a word may not be the same as the adult's meaning. Some children use particular words in a more restrictive way (e.g., "bathing suits" or "pajamas" may not be clothing to a young child), a more inclusive way (e.g., "in" often means "in" or "between"), or in a way that is peculiar to them or their families (e.g., a "penis" is called a "bird"). Words that are critical to identifying an individual, event, or object should be clarified.
- **Remember that self-contradictions could be due to language issues.** Children may seem to contradict themselves because they use language differently than adults. For example, some children think that you only *touch* with your hands. Therefore, they may say "no" to questions such as "Did he touch you?" but later report that they were kissed. Children also tend to be very literal. For example, they might say "No" to the question "Did you put your mouth on his penis?" but later respond "Yes" to the question "Did he put his penis in your mouth?" Interviews may vary the phrasing of questions to check the child's understanding of the concept.

### Avoid Using Difficult Words or Introducing New Words

- **Avoid difficult temporal words with young children.** Children under the age of about 7 years have difficulty with temporal words such as *before* and *after*. Try to narrow down the time of an event by asking about other activities or events, such as whether it was a school day or not a school day or what the child was doing that day.
- **Avoid kinship terms with young children.** Young children are often confused by kinship terms (e.g., uncle, aunt). Instead of using the kinship term (e.g., "Tell me about your aunt"), refer to the person by name (e.g., "Tell me about Aunt Sue").

- **Select words that clearly mention places, people, objects, and actions.** Children sometimes confuse the meaning of word pairs such as “come” and “go,” “here” and “there,” and “a” and “the.” This confusion can make it difficult for a child to understand a question such as “Did you go *there* for Christmas?” Whenever possible, it is best to ask questions that clearly mention specific places, people, objects and actions (e.g., “Did you go to Grandpa John’s house on Christmas day, or did you go somewhere else?”).
- **Avoid adult jargon.** Even school-aged children often do not understand common legal terms and many other words that seem obvious to adults, such as *judge, jury, or hearing*. Avoid legal terms or other adult jargon.
- **Avoid introducing words the child has not yet mentioned.** Children often integrate new words into their narratives, so avoid introducing key words, names, or phrases that the child has not yet volunteered.

### Ask Simple Questions

- **Ask one question at a time.** Questions should ask about only one concept at a time. Avoid multiple questions.
- **Use a noun-verb-noun order.** In other words, use the active voice (e.g., “You said earlier that you hit him ...”) rather than the passive voice (e.g., “You said earlier that he was hit by you”).
- **Do not use “tag” questions.** These are questions such as “And then he left, didn’t he?”
- **Avoid pronouns and other “pointing” words.** Words such as *she, he, that, or it* can be ambiguous to a child, even when these words are in the same sentence as their referents (e.g., “So when *she* came home, did *mom* take a nap?”). Be redundant and try to use the referent as often as possible (e.g., say, “So after *your father pushed you*, then what happened?” rather than “So after he did *that*, then what happened?”).
- **Prioritize *who, what, and where* questions.** Children learn to answer *who, what, and where* questions earlier than *when, how, and why* questions.
- **Avoid overly specific questions.** Children’s memory failures are more common when interviewers word questions specifically rather than broadly. For example, the question “Tell me about the last time you visited your cousin’s *house*” is less likely to prompt recall of abuse in the *back yard* than the question “Tell me about the last time you visited your cousin.”

## Consider How Culture Might Influence Children's Behavior

- **Try to learn about the child's culture.** If a child is from a different culture, the interviewer should try to confer with someone from that culture to see if special cultural considerations should be understood prior to the interview.
- **Avoid correcting children's nonverbal behavior.** Children are discouraged in some cultures from looking authority figures in the eye while answering. Avoid correcting children's nonverbal behavior unless that behavior interferes with your ability to hear the child.
- **Remember that many children are taught to cooperate with adults.** For example, some cultural groups discourage children from correcting or contradicting an adult, and children from these environments may be more likely to answer multiple-choice or yes-no questions even when they are uncertain.

Adapted from Poole and Lamb (1998) with permission from the American Psychological Association. For expanded discussions, see Walker (2013).

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## Quick Guide #3: Overview of a Phased Interview

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### 1. Prepare for the Interview and the Interview Environment

- a. Gather background information.
- b. Generate alternative hypotheses and hypothesis-testing questions.
- c. Remove distracting materials from the room

### 2. Introduce Yourself and Start Building Rapport

- "Hello, my name is \_\_\_\_\_. My job is to listen to children, and today I am here to listen to you."
- a. Introduce yourself to the child by name and, if desired, by occupation.
  - b. Explain the recording equipment, if used, and permit the child to glance around the room.
  - c. Begin a brief conversation about neutral events. Favor prompts that require narrative responses over prompts that elicit single-word responses or lists of words.
  - d. Answer spontaneous questions from the child.

### 3. Establish the Ground Rules

- "Before we talk some more, I have some simple rules for talking today."
- a. Tell the child not to guess at answers.
  - b. Encourage the child to ask for clarification if the child does not understand something the interviewer said.
  - c. Explain the child's responsibility to correct the interviewer when the interviewer is incorrect.
  - d. Get a verbal agreement from the child to tell the truth.
  - e. Allow the child to demonstrate understanding of the rules with practice questions (e.g., "What is my dog's name?").

### 4. Conduct a Practice Narrative (to train the child to provide chronological details about a neutral event)

- "I'd like to get to know you a little better now. I heard you (an event; e.g., went to \_\_\_\_). Tell me everything that happened that day, from [e.g., the time you got up, the time you got to the \_\_\_\_]."
- a. Ask the child to recall a significant event or (if the child is hesitant) a scripted event (e.g., What the child does to get ready for school each morning or how the child plays a favorite game).
  - b. Tell the child to report everything about the event from beginning to end, even things that might not seem very important.
  - c. Encourage a spontaneous narrative with open-ended prompts, such as "What else happened after \_\_\_\_ [a part of the event mentioned by the child]?" "And then what happened?"
  - d. Be patient and allow time between a child's response and the next question/prompt.
  - e. Reinforce the child for talking by displaying interest both nonverbally and verbally (e.g., "Really?" or "Ohhh.")



Immediately after the practice narrative is a good time to discuss useful background information (if helpful):

“Thank you for telling me about \_\_\_\_\_. I’d like to know more about [e.g., who lives with you, your friends].”

- a. Use open-ended questions to elicit information about people and/or places you might discuss later in the interview.
- b. If the child mentions a matter under investigation, proceed to phase 6.

## **5. Introduce the Topic**

*“Now that I know you better, I want to talk about the reason [you are/I am] here today. “Do you know the reason I came to talk with you?”*

- a. Raise the topic, starting with the least suggestive prompt.
- b. Avoid words such as “hurt,” “bad,” “good-touch/bad touch,” or “abuse.”

## **6. Elicit a Free Narrative**

*“Tell me everything about [refer back to child’s statement].”*

- a. Prompt the child for a free narrative with open-ended broad prompts, such as “Tell me everything you can about [refer back to child’s statement].”
- b. Encourage the child to continue by using facilitators (e.g., pauses and utterances like “Uh huh”) and open-ended breadth questions (e.g., “Then what happened?”). When the child stops adding new information, continue with open-ended depth prompts “Tell me more about the part where [refer back to child’s statement]” paired with open-ended breadth questions (e.g., “What happened next?” “What else happened?”).

## **7. Question, Clarify, and Test Hypotheses**

*“I want to make sure I understand everything that happened.”*

- a. Cover topics in an order that builds on the child’s prior answers. Avoid shifting topics abruptly or without warning.
- b. Select less suggestion question forms over more suggestive questions as much as possible. (See Quick Guide #4: Hierarchy of Interview Questions.)
- c. Do not assume that the child’s use of terms (e.g., “uncle” or “pee pee”) is the same as an adult’s.
- d. Clarify important terms and descriptions of events when these appear inconsistent, improbable, or ambiguous.
- e. Ask questions that will test alternative explanations for the allegations.
- f. At any time, you may break to review notes, check the interview plan, or consult with observers (if helpful).
  - a. Tell the child that you need a moment to check your notes.
  - b. If you are recording, keep the recording equipment running.

## **8. Close the Interview**

*“Is there something else you’d like to tell me about [event child described]? Do you have any questions for me?”*

- a. Ask if the child has any questions.
- b. Revert to neutral topics.

Adapted from Poole and Lamb (1998).

Broad, breadth, and depth prompts reflect terminology from Powell and Snow (2007).

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## Quick Guide #4: Hierarchy of Interview Questions

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This is a hierarchy of prompt types from least suggestive to most suggestive. **Whenever possible, select prompts from the top of the hierarchy.**

**Still-your-turn feedback** refers to interviewer comments/behaviors that encourage children to continue talking (also called *facilitators* and *minimal encouragers*).

Examples:

- “Okay” or “Uh huh.”
- Partial repetitions; e.g., child: “Then he took me into the basement.” Interviewer: “Into the basement.”
- Silence.

**Free Narrative and Other Open-Ended Prompts** allow children to decide which details to report (also called *open-ended recall prompts* and *open-ended questions*):

**open-ended broad questions** ask children to talk about an event (also called *free narrative prompts* and *invitations*).

Examples:

- “Tell me everything about [event the child mentioned].”
- “Tell me everything that happened.”

**open-ended breadth questions** (another type of *invitation*) ask for more information about an event.

Example:

- “Then what happened?”

**open-ended depth questions** ask children to discuss something they already mentioned (also called *cued invitations*).

Example:

- “Tell me more about the part where [action the child mentioned.]”

**Specific but non-leading questions** ask children for details about topics that children have already mentioned (also called Wh- questions, directives, and recall-detail questions). Use these questions only when the details are important, because children often try to answer specific questions even when they do not know the relevant information.

Examples:

- “What were you doing when dad came over?”
- “What did your mom say after you told her?”

**Closed questions** provide only a limited number of options (also called *option-posing* and *forced-choice questions*). These prompts are used when children do not respond to open-ended questions, there is no obvious open-ended question that will elicit the desired information, or when a specific question is developmentally inappropriate. For example, the question “How many times did that happen?” is difficult for your children.

**Multiple-choice questions**, particularly when they have more than two options, are preferable to yes-no questions because multiple-choice questions permit a wider range of responses.

Examples:

- “Did [event] happen one time or more than one time?” Follow-up prompt: “Tell me about the last time [event] happened.” “Did [event] happen at your house, at grandpa’s house, or some other place?” Follow-up prompt “Tell me more about [location child described].”

**Yes-no questions** expect the child to say “yes” or “no.”

Example:

- “Was your mom home when [event] happened?” Follow-up prompt: “Tell me what your mom was doing.”

**Explicitly leading questions** suggest the desired answer or contain information the child has not yet volunteered. (Even yes-no questions are considered leading by many psychologists, particularly if the child is young or the interviewer does not reiterate the child’s right to say “no.”) Explicitly leading questions should be avoided during forensic interviews.

Examples:

- “You told your mom you were scared of him, didn’t you?”
- “What was he wearing when he laid next to you?” (When the child did not mention that the male in question laid down.)

Sources: Adapted with permission from the American Psychological Association from Poole and Lamb (1998) and Poole (2016). The terms facilitators, invitations, cued invitations, focused questions, and suggestive questions reflect usage by Michael Lamb and his colleagues (e.g., Sternberg et al., 2001). Martine Powell and her colleagues have divided open-ended questions into broad, breadth, and depth questions (e.g., Powell & Snow, 2007).

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## Quick Guide #5: Exploring Issues With Open-ended Prompts and Question Frames

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Familiarity with a list of frequently-used comments/prompts helps interviewers ask questions that children understand. Question frames (also called *question stems*) are memorized phrases that interviewers use to construct prompts about the issues under discussion.

### Managing Topics

#### Raising the Topic

**Topic opener:**

“Tell me what you have come to talk to me about today.”

#### Keeping the Child on Topic

**Topic marker:**

“Tell me everything about [child’s words; e.g., *those pictures*].”

#### Conducting a Topic-Drift Check

**Topic-drift check:**

“Are you talking about the time [current topic] or something else?”

“Are you talking about [person under discussion] or someone else?”

“Are you talking about [object under discussion] or something else?”

#### Shifting the Topic

**Topic shifter:**

“I am going to ask about something else now.”

### Eliciting Information

#### Asking for a Free Narrative

**Open-ended broad question (also called a free narrative prompt):**

“Tell me everything that happened.”

#### Asking for Elaboration

**Open-ended breadth question:**

“What happened next/after that? (or “Then what happened?”)

“What else happened that time [child’s words]?”

**Open-ended depth question:**

"Tell me more about the part where [child's words]."

"What happened when [child's words]?"

**Asking About Feelings and Reactions**

"How did you feel when [child's words]?"

"What did [name of person] do that made you [child's words: scared, nervous, etc.]?"

"Is there something that would make you feel less [scared, nervous, etc.]?"

**Asking About Reasons**

"What made [name of person] [action child described]?" (For example, "What made your mom get mad?")

"How did [description of the situation]?" (For example, "How did your pajamas come off?"

"How did the lighter get on the table?"

**Asking for Sensory Details**

"Sometimes we remember a lot about how things looked. Tell me how everything *looked* in/at/when [child's words for the location or event]."

"Sometimes we remember a lot about sounds or things that people said. Tell me all the things you *heard* in/at/when [child's words for the location or event]."

**Exploring for Other Incidents**

"Did that happen one time or more than one time?"

(if child says, "lots of times"):

"Tell me about the last time something happened."

"Tell me about another time you remember."

"Tell me about the time you remember best (or the most)."

"Was there ever a time when something different happened?" "Tell me about that time."

**Clarifying Reports****Clarifying Ambiguities****Person:**

"You said [grandpa, teacher, Uncle Bill, etc.]. Do you have one \_\_\_\_ or more than one \_\_\_\_?"

"Which \_\_\_\_?"

"Does your \_\_\_\_ have another name?" (or, "What does your \_\_\_\_ [mom, dad, etc.] call \_\_\_\_?")

**Object or action:**

"You said [child's words]. Tell me what that is."

**Object:**

“You said [child’s word]. What does the [child’s word] look like?”

**Location:**

“I don’t know anything about the [child’s words]. Tell me about the [child’s words]/What is the [child’s words]?”

**Clarifying “I Don’t Know” Responses**

“You don’t know, or you don’t want to talk about this right now?”

**Clarifying Inaudible Comments**

“I couldn’t hear that. What did you say?”

**Resolving Inconsistent Information**

“You said [child’s first words on the issue], but then you said [child’s second words on the issue]. I’m confused about that. Tell me again how that happened.”

“You said [child’s first words on the issue], but then you said [child’s second words on the issue]. Was that the same time or different times?”

**Encouraging Responses**

**Overcoming Embarrassed Pauses**

“It’s okay to say it.”

“It’s okay to talk about this.”

“Is there something that would make it easier for you to talk about this?” (Children sometimes continue when interviewers give them a choice, such as “Would you like to sit here instead?” or “Would you like to make a picture while we talk?” The choices offered should permit continuous recording and should not involve unauthorized interview props.)

**Repairing Conversational Breaks**

“Tell me more about that.”

“And then what happened?”

“I’m still listening.”

Sources: Lyon et al. (2012), Poole and Lamb (1998), Powell (2003), Powell and Snow (2007). Adapted from Poole (2016) with permission from the American Psychological Association.

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## Quick Guide #6: Guidelines for Use of Physical Evidence

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Physical evidence of abuse or neglect may be presented to a child during a forensic interview, if necessary. Attempts should first be made to introduce the topic and elicit a free narrative from the child without the use of physical evidence. If those attempts fail, the interviewer may choose to proceed using physical evidence to introduce the topic.

The use of physical evidence may also be helpful during the Question, Clarify, and Test Hypotheses Phase. Interviewers should follow the hierarchy of questions, starting with the least suggestive types of questions (See Quick Guide #4: The Hierarchy of Interview Questions). For example, if a photograph is shown to a child, the interviewer should start by saying, "Tell me about this picture" rather than asking "What did he do to you?"

Types of physical evidence include, but are not limited to:

- Belts.
- Curling irons.
- Paddles.
- Medical photographs of bruises in physical abuse cases.
- Photographs of the condition inside a house in neglect cases.
- Sex toys.
- Camcorders.
- Lubricants in sexual abuse cases.
- Photographs or video recordings in sexual abuse cases.

The investigative team should consider several questions before making the decision whether or not to use physical evidence during the forensic interview:

- Is it necessary?
- When should the evidence be presented?
- How should the evidence be presented?
- Which items, images, or recordings should be presented to the child?
- Should the items, images, or recordings be masked to cover the abusive material?

Not all items, images, or recordings available may need to be presented to a child. Evidence presented during an interview should be chosen based upon issues including, but not limited to:

- Charging needs of the prosecutor.
- Identification of the child.
- Identification of the perpetrator(s).
- Identification of witnesses.
- Corroborative purposes.

After evaluating these questions, the team can then decide the most appropriate course of action.

The interviewer should be up-front about physical evidence early in the interview. For example, with pictures, the interviewer might say “I have some pictures I may want to show you and talk about today, but first I want to get to know you better.” This approach gives the interviewer the option of showing or not showing the physical evidence.

**Special consideration must be given to photographs or recordings of a child engaged in sexually abusive activity.** Please contact the charging authority (prosecutor or attorney general) in your area before presenting these types of images to a child. There are state and federal laws governing the possession and handling of child sexually abusive material. Child sexually abusive material should be handled by law enforcement. Law enforcement officers may provide child sexually abusive material to a forensic interviewer for use in a forensic interview if they ensure that the child sexually abusive material does not leave the interview location. All child sexually abusive material should be returned to law enforcement immediately after the interview.

The investigative team should consider using the least graphic images available. If necessary, the team may mask the images using paper, cardboard, tape, or a template to remove the abusive material. The method and nature of the masking should be documented.

Physical or digital evidence should not be altered. If it is impractical to mask the original and not alter the image, a copy may be made for this purpose. If a copy of an image (including a still frame from a video recording) needs to be made so that it can be masked, the investigative team should contact their local law enforcement digital evidence expert. Copies of child sexually abusive material for this purpose should only be made by a certified computer forensic examiner.



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## Quick Guide #7: Introducing the Topic

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When introducing the topic, start with a transitional statement such as “Now that I know you a little better, it is time to talk about something else” and then follow-up with one or more of the suggestions listed below. Whenever possible, select the more open-ended questions at the top of the hierarchy.

**“Tell me the reason you are here today.”**

**“Do you know the reason I came to talk with you?” If answer is “I don’t know,” respond:**

- “It is important for me to understand the reason you came to talk to me today.”
- “I talk to kids about things that have happened. Has something happened to you?”
- “As I told you, my job is to talk to kids about things that have happened to them. It is very important that I understand the reason you are here. Tell me why you think your mom (dad, etc.) brought you here today.”
- “Is your mom (dad, etc.) worried that something may have happened to you?” If the child says “Yes,” respond, “Tell me what mom (dad, etc.) is worried about.”
- “Tell me the reason [person named in allegation] doesn’t live with you anymore.”
- “I heard that someone has been bothering you. Tell me all about that.”
- “I heard that something might have happened to you. Tell me all about that.”

**If children do not respond to any of the above, then questions can be more direct and focused:**

- “I heard you talked to [name of person] about something. Tell me all about that.”
- “I heard that you saw a policeman (social worker, doctor, etc.) last week (yesterday.) Tell me all about that.”
- “I have some information that something happened. Tell me all about what happened.”
- “Tell me all about [location or time of alleged incident.]”
- “I heard that someone might have [brief summary of allegation without mentioning name of alleged perpetrator].”

**Remember to follow up the answer with “Tell me all about [event child described]”**

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## **Quick Guide #8: Physical Abuse and Neglect Questions**

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This quick guide contains examples of questions which may be helpful during physical abuse and neglect interviews. As with any forensic interview, the interviewer should try to get as much information as possible from a child during the free narrative portion of the interview, using open-ended questions and prompts to elicit information from the child. Keep in mind the questions below are not a script, as case features and child responses determine which questions are appropriate. It is important to follow up on the child's answers with prompts such as "Tell me more about [use child's words]."

### **Child Was Left Home Alone (Failure to Supervise)**

- "Have you ever been left home alone? Tell me about being home alone."
- "Tell me about the last time you were home alone."
- "If you need help and your mom (dad) is not home, what do you do?"
- "Tell me how you feel when you are home alone."
- "Tell me what happened last night after your mom (dad) left the house."
- "I understand the police were at your home last night—tell me all about last night."

### **Child Is Not Taking Prescribed Medication/Pills (Medical Neglect)**

- "I understand that you take pills so you don't get sick. Tell me about that."
- "Tell me about the pills that you take."
- "Tell me what your pills look like."
- "How do you get your pills?"
- "Do you need help to take your pills?"
- "What happens if you don't take your pills?"
- "Has there ever been a time when you had no pills? Tell me about that time."
- "Was there a time you didn't take your pills—what happened?"

### **Child Is in a Dirty House or House Lacking Food, Heat, or Water (Neglect)**

- "What do you like about your house?"
- "Is there anything you do not like about your house?"
- "What happens when you get dirty?"
- "What happens when your clothes get dirty?"
- "Tell me about the last time you had a bath or shower."
- "Tell me about the food you ate today, beginning with when you got up this morning."
- "How do you stay warm in your house?"
- "Do you have any pets? Where does your pet go to the bathroom?"

### **Child Has Been Spanked/Hit, Leaving Injury (Physical Abuse)**

- “Tell me the best thing about your family.”
- “Is there anything about your family that you do not like? Tell me about the things you don’t like.”
- “Tell me what happens if you don’t do what your mom (dad, mom’s boyfriend/girlfriend) tells you to do.”
- “What happens when your mom (dad) gets mad?”
- “You said that mom hit you with a fly swatter. Tell me about that time with the fly swatter.”
- “Tell me about the last time you were spanked (hit, kicked).”
- “Who else did you tell? Who else knows about this?”
- “You said your dad hit you with a belt. Tell me what your (arm, leg, etc.) looked like after your dad hit you with a belt.”
- “I understand the police were at your house last night. Tell me about last night.”

### **Child Has Been Ridiculed/Humiliated/Threatened Consistently (Emotional Abuse)**

- “Tell me the best thing about your family.”
- “Is there something about your family that you do not like? Tell me about the things you don’t like.”
- “Tell me about the last time you were afraid.”
- “If you could change three things about your family, what would you change?”
- “Tell me about the last time your mom (dad) was angry with you.”
- “Tell me about the last time someone made you feel bad about yourself.”
- “Tell me about the last time you felt like crying.”
- “I heard that someone was calling you names. Tell me about the name calling.”

### **Child Has Recanted**

- “Do you know the reason you are here today?”
- “You said [child’s initial statement] then you said [child’s second statement.] I’m confused. Help me understand.”
- “Tell me what’s been going on in your life since the last time we talked. How is your mom? How is your dad?” Use information you obtained in the first interview about likes/dislikes, family, etc. to try to determine what changes, if any, may have prompted a recantation.
- “Did someone tell you what to say today?”
- “Tell me the reason you’re saying this today.”
- “We talked a couple weeks ago. You told me [child’s disclosure]. Tell me the reason you told me about [child’s disclosure].”

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## Quick Guide #9: Sexual Abuse Questions

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This quick guide contains examples of questions which may be helpful during sexual abuse interviews. As with any forensic interview, the interviewer should try to get as much information as possible from a child during the free narrative portion of the interview, using open-ended questions and prompts to elicit information from the child. Keep in mind the questions below are not a script, as case features and child responses determine which questions are appropriate.

### Who is the alleged perpetrator?

- **Clearly identify the alleged perpetrator.** “Who did [child’s report of what happened]?” “Who is [name child mentioned]?” Do not assume you understand what the child means. For example, if the child says “I came here to talk about what daddy did,” you can ask “Does daddy have another name?” or “Do you have one daddy or more than one daddy?”
- **Determine the child’s relationship to the alleged perpetrator.** For example, “How do you know [name child used]?”

**What allegedly happened?** Determine what happened before, during, and after the event, putting the child’s report in context. “Tell me what happened before [event child described]? Tell me what happened after [event child described].”

- **If the child reports touching, clarify what part of the alleged perpetrator’s body was involved.** “How did [alleged perpetrator] touch you? You said he touched your pee pee. What part of his body touched your pee pee?” If child says “His hand,” ask “Did some other part of his body touch your pee pee, or just his hand?”
- **Clarify whether the child is reporting touching on top of clothes or under clothes.** “What were you wearing? What was [alleged perpetrator] wearing? Did anything happen to your clothes? Did anything happen to [alleged perpetrator’s] clothes? Did your clothes move at all? You said he touched your pee pee with his hand and you were wearing pajamas and panties. Was [alleged perpetrator’s] hand on top of your pajamas or under your pajamas?” If child reports under pajamas, ask “Was his hand on top of your panties, on your skin, or somewhere else?”

If the child is young, you can begin this line of questioning by testing knowledge of “on top of” and “under” using props, such as a piece of paper and a pencil. “I want to make sure I understand your words. Put the pencil on top of the paper. Put the pencil under the paper.”

- **Determine if the child is alleging any degree of penetration, e.g., outside genital region or inside labia majora.** “You said [alleged perpetrator] [child’s report, i.e., touched, felt, etc.] your [child’s word] with his hand.” Determine child’s name for body part and have child point to it; ask “Can you point to your [child’s word]?” If a girl points to genital area, ask “What do you do with your [child’s word, i.e. private, kitty cat, coochie, etc.]? After you go pee pee (or whatever word child used), what do you do?” If child says, “I wipe myself”, ask “The area where you wipe yourself - what do you call it? You said that [alleged perpetrator] touched your [child’s word]. Did [alleged perpetrator] touch on the outside of [child’s word] or inside where you wipe yourself? How did it feel when [alleged perpetrator] [child’s report]?”

If the child is young, you can begin this line of questioning by testing knowledge of “inside” and “outside” using props, such as a pencil box and a pencil. “Let me make sure I understand your words. Put the pencil outside the box. Put the pencil inside the box.”

- **Determine if there may be physical evidence on clothing (e.g., ejaculate, creams) or items that can be retrieved.** “Tell me everything that happened when [alleged perpetrator] [child’s report]. Did [alleged perpetrator] use anything when he touched you? What did the [item child mentioned] look like? Where is the [item child mentioned] kept?” If the child alleges penile contact, ask “What did his [child’s word for penis] look like? Did anything come out of [child’s word for penis]? What did [alleged perpetrator] do about [child’s word for what came out of penis]?”
- **Ask about conversation.** “Did [alleged perpetrator] say anything? Did you say anything (talk) to [alleged perpetrator]? When [abuse] ended, did [alleged perpetrator] say something?”
- **Ask about potential witnesses.** “Was anyone else there when [alleged perpetrator] [child’s report]? Did anyone see? Did you hear anyone else? Did anyone hear you?”

**Where did this allegedly happen?** “Where were you when [alleged perpetrator] [child’s report].” If reported location is a home or apartment, ask “What room were you in when [alleged perpetrator] [child’s report]? Tell me what [child’s word for room] looks like. Where were you in the [child’s word for room]?”

**When did this allegedly happen?** For younger children, use questions about age, school, or recent holidays to restrict the time; e.g., “How old were you when [alleged perpetrator] [child’s report]? What grade in school were you in when [alleged perpetrator] [child’s report]? Did [alleged perpetrator] [child’s report] a short time ago or a long time ago?” For older children, ask “When did this happen?” Attempt to establish whether offenses happened after August 2006 (when the law was amended to increase penalties). For younger children, if you need to determine a time of day for the alleged event, ask questions about what they were doing, using school hours, television shows, or mealtimes to narrow the time; e.g., “What were you doing when [alleged perpetrator] started to [child’s report]” (See Questions about Time on page 25).

**How often did this allegedly happen?** Ask questions about the nature of the touching for each event the child reports.

- Young child: “Did [alleged perpetrator] [child’s report] one time or more than one time?” If child says, “More than one time”, ask “Did [child’s report] happen a lot of times or just a few times?”
- “Tell me about the first time [alleged perpetrator] [child’s report]. Tell me about the last time [alleged perpetrator] [child’s report]. You told me [alleged perpetrator] [child’s first report] and [second report]. Were those the only times or was there another time? What time do you remember the best? What was the worst time something like [child’s report] happened?”
- It is not necessary to ask the child for the specific number of times the abuse happened. Instead, determine if it happened every day, once a week, every time Mom went bowling, every time the alleged perpetrator babysat, or in reference to some other meaningful event.

**Were images taken or were sexually explicit materials used?**

- “Did [alleged perpetrator] show you anything when [child’s report] happened? Tell me about the [child’s report].”
- “Did [alleged perpetrator] ever show you any books, pictures, or movies when [report of abuse] happened? Tell me everything about [child’s report].”
- “Did [alleged perpetrator] say something about books, pictures, or movies when [report of abuse] happened? Tell me all about [what accused said].”
- “Did [alleged perpetrator] have a computer, cell phone or other media device? Did [alleged perpetrator] show you anything on [named media device]? Tell me about [child’s report].”
- “Did [alleged perpetrator] show you anything on the TV or [named media device] that you think children your age shouldn’t see?” Ask questions to find out where these items are located in the house and what the child saw.
- “Did you ever watch movies with [alleged perpetrator]?”
- “Did [alleged perpetrator] take any pictures? How do you know? Tell me all about [child’s report].”

## Who knows about the alleged abuse?

- **Identify people the child has told and when these disclosures occurred.** “Have you told someone about [child’s report]? Does anyone else know about [child’s report]? How long has [named person] known about [allegation]?”
- **Explore the child’s motivations for delaying disclosure.** “Did you tell someone?” If the child responds “No” then follow up with “Is there a reason you didn’t tell?” If the child responds “Yes”, then “Is there a reason you decided to tell? How was [child’s report] able to stay a secret for so long? Did [alleged perpetrator] say something about you telling? Did [alleged perpetrator] give you anything? Did [alleged perpetrator] take away anything from you? Is there anything [alleged perpetrator] allows you to do, that you can’t do somewhere else? Did [alleged perpetrator] let you break any of your mom or dad’s rules?”
- **Ask if other people know about the alleged events.** “Who else knows about [child’s report]? How do they know? Did someone else see (hear) this?” Remember that preschoolers may have difficulty with questions that include the words “remember” and “know.”

## What was the nature/quality of the child’s relationship with the alleged perpetrator?

Explore the alleged perpetrator’s relationship with the child to elicit details of grooming (e.g., unusual gift-giving) or motivations for the child to lie (e.g., history of harsh punishment or rules). “How did you get along with [alleged perpetrator]? Is there something you liked about spending time with [alleged perpetrator]? Is there something you didn’t like about spending time with [alleged perpetrator]? How did you feel about [alleged perpetrator] when he wasn’t [child’s report]? Were there other things you didn’t like about spending time with [alleged perpetrator]? How did your mom (dad, brother, etc.) get along with [alleged perpetrator]?”

**Has the alleged perpetrator allegedly done this to someone else?** “Has [alleged perpetrator] done things he shouldn’t do to another child? Have you seen with your own eyes or have you seen [alleged perpetrator] do it to another child?” Follow up with questions to determine the child’s name, name of parents, if known, and “does your mom or dad know how to reach them?”

**Has someone else allegedly done this to the child?** “Has someone else ever [child’s report]?” If the child mentions a name, begin a line of questioning to clarify who that individual is and to explore this new disclosure.

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## Quick Guide #10: Interviewing About Repeated Similar Events

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Children who experienced repeated similar events may recall *scripts*, which are memories of what *usually* happened. Script recall is evident when a child describes typical activities (for example, “first she closes the door, then she”). If the child discloses using the generic language of a script, the interviewer can use generic prompts to elicit what *usually* happens, as illustrated on the left side of the following table (e.g., “Tell me *what happens*”; Brubacher et al., 2012; Connolly & Gordon, 2014):

### Generic Prompts

Tell me *what happens*.

Then *what happens*?

*What happens* next?

*What else happens* when [child’s words for the repeated action or other information that identifies the topic, such as “the other children leave”]?

You said [child’s words; e.g., “she starts yelling”]. *Then what happens*?

You said sometimes [child’s words; e.g., “she uses a belt”]. Tell me *what happens* when [child words; e.g., “she uses a belt”].

### Episodic Prompts

Tell me *what happened* that time.

Then *what happened*?

*What happened* next?

*What else happened* when [child’s words for the event or other information that identifies the topic, such as “the other children left”]?

You said [child’s words; e.g., “she started yelling”]. *Then what happened*?

You said once [child’s words; e.g., “she used a belt”]. Tell me *about that time*.

After the child gives a generic description, the interviewer can question to elicit specific instances by asking about the time the child remembers best, the last time it happened, and so forth. After the child mentions a specific incident, the interviewer encourages elaboration through prompts that refer to specific episodes, as illustrated on the right side of the table.

Adapted from Poole (2016) with permission from the American Psychological Association.



## End Notes

<sup>1</sup>A variety of terms are used to describe this progression from introduction to closing, including *step-wise* (Yuille, Hunter, Joffe, & Zaparniuk, 1993)-and *phased approaches* (Bull, 1995).

<sup>2</sup>There are no fixed guidelines about how much information interviewers should gather before meeting with a child. An interview is conducted “blind” when the interviewer knows only the child’s name and age. The goal of a blind interview is to reduce the possibility that the interviewer can direct the child to confirm the allegations by asking leading questions. There are a variety of reasons why most experts oppose blind interviews. First, it is difficult for interviewers to develop rapport with children when they know nothing about their living situations or interests. Second, because some children will not respond to general questions about why they are being interviewed, it is difficult for interviewers to introduce the topic of abuse when they know nothing about the place or timing of the alleged abuse. Third, blind interviewing makes it more difficult for interviewers to consider alternative hypotheses about the meaning of children’s statements. Information about recent medical treatment, adults in a child’s life who have duplicate names (e.g., two grandpas), and the child’s caretaking environments and playmates can help interviewers understand what a child is describing. For these reasons, the National Center for Prosecution of Child Abuse, the American Prosecutor’s Research Institute, and the National District Attorney’s Association (1993, p. 59) concluded, “Interviewing a child without knowing any of the details revealed to another is analogous to performing a medical examination without knowing the patient’s history or looking for an unfamiliar destination without a road map.” For a discussion of issues and information about a hybrid approach, see Poole (2016).

## **Appendix Video Recording Laws**

For the most current version of these laws, refer to: [www.legislature.mi.gov](http://www.legislature.mi.gov).

### **Criminal Statute**

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

##### **Act 236 of 1961**

**MCLA 600.2163a Definitions; prosecutions and proceedings to which section applicable; use of dolls or mannequins; support person; notice; videorecorded statement; special arrangements to protect welfare of witness; videorecorded deposition; section additional to other protections or procedures; violation as misdemeanor; penalty.**

Sec. 2163a. (1) As used in this section:

(a) "Custodian of the videorecorded statement" means the department of human services, investigating law enforcement agency, prosecuting attorney, or department of attorney general or another person designated under the county protocols established as required by section 8 of the child protection law, 1975 PA 238, MCL 722.628.

(b) "Developmental disability" means that term as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, except that, for the purposes of implementing this section, developmental disability includes only a condition that is attributable to a mental impairment or to a combination of mental and physical impairments and does not include a condition attributable to a physical impairment unaccompanied by a mental impairment.

(c) "Videorecorded statement" means a witness's statement taken by a custodian of the videorecorded statement as provided in subsection (5). Videorecorded statement does not include a videorecorded deposition taken as provided in subsections (18) and (19).

(d) "Vulnerable adult" means that term as defined in section 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m.

(e) "Witness" means an alleged victim of an offense listed under subsection (2) who is any of the following:

- (i) A person under 16 years of age.
- (ii) A person 16 years of age or older with a developmental disability.
- (iii) A vulnerable adult.

(2) This section only applies to the following:

(a) For purposes of subsection (1)(e)(i) and (ii), prosecutions and proceedings under section 136b, 145c, 520b to 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, 750.520b to 750.520e, and 750.520g, or under former section 136 or 136a of the Michigan penal code, 1931 PA 328.

(b) For purposes of subsection (1)(e)(iii), 1 or more of the following:

(i) Prosecutions and proceedings under section 110a, 145n, 145o, 145p, 174, or 174a of the Michigan penal code, 1931 PA 328, MCL 750.110a, 750.145n, 750.145o, 750.145p, 750.174, and 750.174a.

(ii) Prosecutions and proceedings for an assaultive crime as that term is defined in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.9a.

(3) If pertinent, the witness shall be permitted the use of dolls or mannequins, including, but not limited to, anatomically correct dolls or mannequins, to assist the witness in testifying on direct and cross-examination.

(4) A witness who is called upon to testify shall be permitted to have a support person sit with, accompany, or be in close proximity to the witness during his or her testimony. A notice of intent to use a support person shall name the support person, identify the relationship the support person has with the witness, and give notice to all parties to the proceeding that the witness may request that the named support person sit with the witness when the witness is called upon to testify during any stage of the proceeding. The notice of intent to use a named support person shall be filed with the court and shall be served upon all parties to the proceeding. The court shall rule on a motion objecting to the use of a named support person before the date at which the witness desires to use the support person.

(5) A custodian of the videorecorded statement may take a witness's videorecorded statement before the normally scheduled date for the defendant's preliminary examination. The videorecorded statement shall state the date and time that the statement was taken; shall identify the persons present in the room and state whether they were present for the entire videorecording or only a portion of the videorecording; and shall show a time clock that is running during the taking of the videorecorded statement.

(6) A videorecorded statement may be considered in court proceedings only for 1 or more of the following:

(a) It may be admitted as evidence at all pretrial proceedings, except that it may not be introduced at the preliminary examination instead of the live testimony of the witness.

(b) It may be admitted for impeachment purposes.

(c) It may be considered by the court in determining the sentence.

(d) It may be used as a factual basis for a no contest plea or to supplement a guilty plea.

(7) A videorecorded deposition may be considered in court proceedings only as provided by law.

(8) In a videorecorded statement, the questioning of the witness should be full and complete; shall be in accordance with the forensic interview protocol implemented as required by section 8 of the child protection law, 1975 PA 238, MCL 722.628, or as otherwise provided by law; and, if appropriate for the witness's developmental level or mental acuity, shall include, but is not limited to, all of the following areas:

(a) The time and date of the alleged offense or offenses.

(b) The location and area of the alleged offense or offenses.

(c) The relationship, if any, between the witness and the accused.

(d) The details of the offense or offenses.

(e) The names of any other persons known to the witness who may have personal knowledge of the alleged offense or offenses.

(9) A custodian of the videorecorded statement may release or consent to the release or use of a videorecorded statement or copies of a videorecorded statement to a law enforcement agency, an agency authorized to prosecute the criminal case to which the videorecorded statement relates, or an entity that is part of county protocols established under section 8 of the child protection law, 1975 PA 238, MCL 722.628, or as otherwise provided by law. The defendant and, if represented, his or her attorney has the right to view and hear a videorecorded statement before the defendant's preliminary examination. Upon request, the prosecuting attorney shall provide the defendant and, if

represented, his or her attorney with reasonable access and means to view and hear the videorecorded statement at a reasonable time before the defendant's pretrial or trial of the case. In preparation for a court proceeding and under protective conditions, including, but not limited to, a prohibition on the copying, release, display, or circulation of the videorecorded statement, the court may order that a copy of the videorecorded statement be given to the defense.

(10) If authorized by the prosecuting attorney in the county in which the videorecorded statement was taken, a videorecorded statement may be used for purposes of training the custodians of the videorecorded statement in that county on the forensic interview protocol implemented as required by section 8 of the child protection law, 1975 PA 238, MCL 722.628, or as otherwise provided by law.

(11) Except as provided in this section, an individual, including, but not limited to, a custodian of the videorecorded statement, the witness, or the witness's parent, guardian, guardian ad litem, or attorney, shall not release or consent to release a videorecorded statement or a copy of a videorecorded statement.

(12) A videorecorded statement that becomes part of the court record is subject to a protective order of the court for the purpose of protecting the privacy of the witness.

(13) A videorecorded statement shall not be copied or reproduced in any manner except as provided in this section. A videorecorded statement is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, is not subject to release under another statute, and is not subject to disclosure under the Michigan court rules governing discovery. This section does not prohibit the production or release of a transcript of a videorecorded statement.

(14) If, upon the motion of a party made before the preliminary examination, the court finds on the record that the special arrangements specified in subsection (15) are necessary to protect the welfare of the witness, the court shall order those special arrangements. In determining whether it is necessary to protect the welfare of the witness, the court shall consider all of the following:

- (a) The age of the witness.
- (b) The nature of the offense or offenses.
- (c) The desire of the witness or the witness's family or guardian to have the testimony taken in a room closed to the public.
- (d) The physical condition of the witness.

(15) If the court determines on the record that it is necessary to protect the welfare of the witness and grants the motion made under subsection (14), the court shall order both of the following:

(a) All persons not necessary to the proceeding shall be excluded during the witness's testimony from the courtroom where the preliminary examination is held. Upon request by any person and the payment of the appropriate fees, a transcript of the witness's testimony shall be made available.

(b) In order to protect the witness from directly viewing the defendant, the courtroom shall be arranged so that the defendant is seated as far from the witness stand as is reasonable and not directly in front of the witness stand. The defendant's position shall be located so as to allow the defendant to hear and see the witness and be able to communicate with his or her attorney.

(16) If upon the motion of a party made before trial the court finds on the record that the special arrangements specified in subsection (17) are necessary to protect the welfare of the witness, the court shall order those special arrangements. In determining whether it is necessary to protect the welfare of the witness, the court shall consider all of the following:

- (a) The age of the witness.

- (b) The nature of the offense or offenses.
- (c) The desire of the witness or the witness's family or guardian to have the testimony taken in a room closed to the public.
- (d) The physical condition of the witness.
- (17) If the court determines on the record that it is necessary to protect the welfare of the witness and grants the motion made under subsection (16), the court shall order 1 or more of the following:
  - (a) All persons not necessary to the proceeding shall be excluded during the witness's testimony from the courtroom where the trial is held. The witness's testimony shall be broadcast by closed-circuit television to the public in another location out of sight of the witness.
  - (b) In order to protect the witness from directly viewing the defendant, the courtroom shall be arranged so that the defendant is seated as far from the witness stand as is reasonable and not directly in front of the witness stand. The defendant's position shall be the same for all witnesses and shall be located so as to allow the defendant to hear and see all witnesses and be able to communicate with his or her attorney.
  - (c) A questioner's stand or podium shall be used for all questioning of all witnesses by all parties and shall be located in front of the witness stand.
- (18) If, upon the motion of a party or in the court's discretion, the court finds on the record that the witness is or will be psychologically or emotionally unable to testify at a court proceeding even with the benefit of the protections afforded the witness in subsections (3), (4), (15), and (17), the court shall order that the witness may testify outside the physical presence of the defendant by closed circuit television or other electronic means that allows the witness to be observed by the trier of fact and the defendant when questioned by the parties.
- (19) For purposes of the videorecorded deposition under subsection (18), the witness's examination and cross-examination shall proceed in the same manner as if the witness testified at the court proceeding for which the videorecorded deposition is to be used. The court shall permit the defendant to hear the testimony of the witness and to consult with his or her attorney.
- (20) This section is in addition to other protections or procedures afforded to a witness by law or court rule.
- (21) A person who intentionally releases a videorecorded statement in violation of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

**History:** Add. 1987, Act 44, Eff. Jan. 1, 1988; Am. 1989, Act 253, Eff. Mar. 29, 1990; Am. 1998, Act 324, Imd. Eff. Aug. 3, 1998; Am. 2002, Act 604, Eff. Mar. 31, 2003; Am. 2012, Act 170, Imd. Eff. June 19, 2012.

### **Probate Code Statute**

**MCL 712A.17b Definitions; proceedings to which section applicable; use of dolls or mannequins; support person; notice; video recorded statement; shielding of witness; video recorded deposition; special arrangements to protect welfare of witness; section additional to other protections or procedures.**

Sec. 17b. (1) As used in this section:

- (a) "Custodian of the video recorded statement" means the family independence agency, investigating law enforcement agency, prosecuting attorney, or department of attorney general or

another person designated under the county protocols established as required by section 8 of the child protection law, 1975 PA 238, MCL 722.628.

(b) "Developmental disability" means that term as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, except that, for the purposes of implementing this section, developmental disability includes only a condition that is attributable to a mental impairment or to a combination of mental and physical impairments, and does not include a condition attributable to a physical impairment unaccompanied by a mental impairment.

(c) "Video recorded statement" means a witness's statement taken by a custodian of the video recorded statement as provided in subsection (5). Video recorded statement does not include a video recorded deposition taken as provided in subsections (16) and (17).

(d) "Witness" means an alleged victim of an offense listed under subsection (2) who is either of the following:

(i) A person under 16 years of age.

(ii) A person 16 years of age or older with a developmental disability.

(2) this section only applies to either of the following:

(a) A proceeding brought under section 2(a)(1) of this chapter in which the alleged offense, if committed by an adult, would be a felony under section 136b, 145c, 520b to 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, 750.520b to 750.520e, and 750.520g, or under former section 136 or 136a of the Michigan penal code, 1931 PA 328.

(b) A proceeding brought under section 2(b) of this chapter.

(3) If pertinent, the witness shall be permitted the use of dolls or mannequins, including, but not limited to, anatomically correct dolls or mannequins, to assist the witness in testifying on direct and cross-examination.

(4) A witness who is called upon to testify shall be permitted to have a support person sit with, accompany, or be in close proximity to the witness during his or her testimony. A notice of intent to use a support person shall name the support person, identify the relationship the support person has with the witness, and give notice to all parties to the proceeding that the witness may request that the named support person sit with the witness when the witness is called upon to testify during any stage of the proceeding. The notice of intent to use a named support person shall be filed with the court and shall be served upon all parties to the proceeding. Court shall rule on a motion objecting to the use of a named support person before the date at which the witness desires to use the support person.

(5) A custodian of the video recorded statement may take a witness's video recorded statement. The video recorded statement shall be admitted at all proceedings except the adjudication stage instead of the live testimony of the witness. The video recorded statement shall state the date and time that the statement was taken; shall identify the persons present in the room and state whether they were present for the entire video recording or only a portion of the video recording; and shall show a time clock that is running during the taking of the statement.

(6) In a video recorded statement, the questioning of the witness should be full and complete; shall be in accordance with the forensic interview protocol implemented as required by section 8 of the child protection law, 1975 PA 238, MCL 722.628; and, if appropriate for the witness's developmental level, shall include, but need not be limited to, all of the following areas:

(a) The time and date of the alleged offense or offenses.

(b) The location and area of the alleged offense or offenses.

(c) The relationship, if any, between the witness and the respondent.

- (d) The details of the offense or offenses.
- (e) The names of other persons known to the witness who may have personal knowledge of the offense or offenses.
- (7) A custodian of the video recorded statement may release or consent to the release or use of a video recorded statement or copies of a video recorded statement to a law enforcement agency, an agency authorized to prosecute the criminal case to which the video recorded statement relates, or an entity that is part of county protocols established under section 8 of the child protection law, 1975 PA 238, MCL 722.628. Each respondent and, if represented, his or her attorney has the right to view and hear the video recorded statement at a reasonable time before it is offered into evidence. In preparation for a court proceeding and under protective conditions, including, but not limited to, a prohibition on the copying, release, display, or circulation of the video recorded statement, the court may order that a copy of the video recorded statement be given to the defense.
- (8) If authorized by the prosecuting attorney in the county in which the video recorded statement was taken, a video recorded statement may be used for purposes of training the custodians of the video recorded statement in that county on the forensic interview protocol implemented as required by section 8 of the child protection law, 1975 PA 238, MCL 722.628.
- (9) Except as provided in this section, an individual, including, but not limited to, a custodian of the video recorded statement, the witness, or the witness's parent, guardian, guardian ad litem, or attorney, shall not release or consent to release a video recorded statement or a copy of a video recorded statement.
- (10) A video recorded statement that becomes part of the court record is subject to a protective order of the court for the purpose of protecting the privacy of the witness.
- (11) A video recorded statement shall not be copied or reproduced in any manner except as provided in this section. A video recorded statement is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, is not subject to release under another statute, and is not subject to disclosure under the Michigan court rules governing discovery. This section does not prohibit the production or release of a transcript of a video recorded statement.
- (12) Except as otherwise provided in subsection (15), if, upon the motion of a party or in the court's discretion, the court finds on the record that psychological harm to the witness would occur if the witness were to testify in the presence of the respondent at a court proceeding or in a video recorded deposition taken as provided in subsection (13), the court shall order that the witness during his or her testimony be shielded from viewing the respondent in such a manner as to enable the respondent to consult with his or her attorney and to see and hear the testimony of the witness without the witness being able to see the respondent.
- (13) In a proceeding brought under section 2(b) of this chapter, if, upon the motion of a party or in the court's discretion, the court finds on the record that psychological harm to the witness would occur if the witness were to testify at the adjudication stage, the court shall order to be taken a video recorded deposition of a witness that shall be admitted into evidence at the adjudication stage instead of the live testimony of the witness. The examination and cross-examination of the witness in the video recorded deposition shall proceed in the same manner as permitted at the adjudication stage.
- (14) In a proceeding brought under section 2(a)(1) of this chapter in which the alleged offense, if committed by an adult, would be a felony under section 136b, 145c, 520b to 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, 750.520b to 750.520e, and

750.520g, or under former section 136 or 136a of the Michigan penal code, 1931 PA 328, if, upon the motion of a party made before the adjudication stage, the court finds on the record that the special arrangements specified in subsection (15) are necessary to protect the welfare of the witness, the court shall order 1 or both of those special arrangements. In determining whether it is necessary to protect the welfare of the witness, the court shall consider both of the following:

(a) The age of the witness.

(b) The nature of the offense or offenses.

(15) If the court determines on the record that it is necessary to protect the welfare of the witness and grants the motion made under subsection (14), the court shall order 1 or both of the following:

(a) In order to protect the witness from directly viewing the respondent, the courtroom shall be arranged so that the respondent is seated as far from the witness stand as is reasonable and not directly in front of the witness stand. The respondent's position shall be located so as to allow the respondent to hear and see all witnesses and be able to communicate with his or her attorney.

(b) A questioner's stand or podium shall be used for all questioning of all witnesses by all parties, and shall be located in front of the witness stand.

(16) In a proceeding brought under section 2(a)(1) of this chapter in which the alleged offense, if committed by an adult, would be a felony under section 136b, 145c, 520b to 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, 750.520b to 750.520e, and 750.520g, or under former section 136 or 136a of the Michigan penal code, 1931 PA 328, if, upon the motion of a party or in the court's discretion, the court finds on the record that the witness is or will be psychologically or emotionally unable to testify at a court proceeding even with the benefit of the protections afforded the witness in subsections (3), (4), and (15), the court shall order that a video recorded deposition of a witness shall be taken to be admitted at the adjudication stage instead of the witness's live testimony.

(17) For purposes of the video recorded deposition under subsection (16), the witness's examination and cross-examination shall proceed in the same manner as if the witness testified at the adjudication stage, and the court shall order that the witness, during his or her testimony, shall not be confronted by the respondent but shall permit the respondent to hear the testimony of the witness and to consult with his or her attorney.

(18) This section is in addition to other protections or procedures afforded to a witness by law or court rule.

(19) A person who intentionally releases a video recorded statement in violation of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

**History:** Add. 1987, Act 45, Eff. Jan. 1, 1988;--Am. 1989, Act 254, Eff. Mar. 29, 1990;--Am. 1998, Act 325, Imd. Eff. Aug. 3, 1998;--Am. 2002, Act 625, Eff. Mar. 31, 2003.



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MDHHS-PUB-779 (Revised October 2017)



# **CHILD PROTECTION LAW**



ACT NO. 238, Public Acts of 1975, as amended, being  
Sections 722.621 — 722.638, Michigan Compiled Laws.



## **NOTE:**

All underlined text in this law, except the section headings, is language changed or added in this revision of the publication.

AN ACT to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts.

**History:** 1975, Act 238, Eff. Oct. 1, 1975; --Am. 1988, Act 372, Eff. Mar. 30, 1989.

*The People of the State of Michigan enact:*

**722.621 Short title.**

**Sec. 1.**

This act shall be known and may be cited as the “child protection law”.

**History:** 1975, Act 238, Eff. Oct. 1, 1975.

**Cited in other sections:** Section 722.621 et seq. is cited in MCL 333.5131, 333.5267, and 722.904.

**722.622 Definitions.**

**Sec. 2.**

As used in this act:

- (a) “Adult foster care location authorized to care for a child” means an adult foster care family home or adult foster care small group home as defined in section 3 of the adult foster care facility Licensing Act, 1979 PA 218, MCL 400.703, in which a child is placed in accordance with section 5 of 1973 PA 116, MCL 722.115.
- (b) “Attorney” means, if appointed to represent a child under the provisions referenced in section 10, an attorney serving as the child’s legal advocate in the manner defined and described in section 13a of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.13a.
- (c) “Central registry” means the system maintained at the department that is used to keep a record of all reports filed with the department under this act in which relevant and accurate evidence of child abuse or child neglect is found to exist.
- (d) “Central registry case” means a child protective services case that the department classifies under sections 8 and 8d as category I or category II. For a child protective services case that was investigated



before July 1, 1999, central registry case means an allegation of child abuse or child neglect that the department substantiated.

- (e) "Child" means a person under 18 years of age.
- (f) "Child abuse" means harm or threatened harm to a child's health or welfare that occurs through nonaccidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment, by a parent, a legal guardian, or any other person responsible for the child's health or welfare or by a teacher, a teacher's aide, or a member of the clergy.
- (g) "Child care organization" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.
- (h) "Child care provider" means an owner, operator, employee, or volunteer of a child care organization or of an adult foster care location authorized to care for a child.
- (i) "Child care regulatory agency" means the department or a successor state department that is responsible for the licensing or registration of child care organizations or the licensing of adult foster care locations authorized to care for a child.
- (j) "Child neglect" means harm or threatened harm to a child's health or welfare by a parent, legal guardian, or any other person responsible for the child's health or welfare that occurs through either of the following:
  - (i) Negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care.
  - (ii) Placing a child at an unreasonable risk to the child's health or welfare by failure of the parent, legal guardian, or other person responsible for the child's health or welfare to intervene to eliminate that risk when that person is able to do so and has, or should have, knowledge of the risk.
- (k) "Citizen review panel" means a panel established as required by Section 106 of title I of the child abuse prevention and treatment act, 42 USC 5106A.
- (l) "Member of the clergy" means a priest, minister, rabbi, Christian science practitioner, or other religious practitioner, or similar functionary of a church, temple, or recognized religious body, denomination, or organization.
- (m) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.
- (n) "CPSI system" means the child protective service information system, which is an internal data system maintained within and by the department, and which is separate from the central registry and not subject to section 7.
- (o) "Department" means the Department of Human Services.
- (p) "Director" means the director of the department.
- (q) "Expunge" means to physically remove or eliminate and destroy a

record or report.

- (r) “Lawyer-guardian ad litem” means an attorney under section 10 who has the powers and duties referenced by section 10.
- (s) “Local office file” means the system used to keep a record of a written report, document, or photograph filed with and maintained by a county or a regionally based office of the department.
- (t) “Nonparent adult” means a person who is 18 years of age or older and who, regardless of the person’s domicile, meets all of the following criteria in relation to a child:
  - (i) Has substantial and regular contact with the child.
  - (ii) Has a close personal relationship with the child’s parent or with a person responsible for the child’s health or welfare.
  - (iii) Is not the child’s parent or a person otherwise related to the child by blood or affinity to the third degree.
- (u) “Person responsible for the child’s health or welfare” means a parent, legal guardian, person 18 years of age or older who resides for any length of time in the same home in which the child resides, or, except when used in section 7(2)(e) or 8(8), nonparent adult; or an owner, operator, volunteer, or employee of 1 or more of the following:
  - (i) A licensed or registered child care organization.
  - (ii) A licensed or unlicensed adult foster care family home or adult foster care small group home as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.
  - (iii) A court-operated facility as approved under section 14 of the social welfare act, 1939 PA 280, MCL 400.14.
- (v) “Relevant evidence” means evidence having a tendency to make the existence of a fact that is at issue more probable than it would be without the evidence.
- (w) “Sexual abuse” means engaging in sexual contact or sexual penetration as defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a, with a child.
- (x) “Sexual exploitation” includes allowing, permitting, or encouraging a child to engage in prostitution, or allowing, permitting, encouraging, or engaging in the photographing, filming, or depicting of a child engaged in a listed sexual act as defined in section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.
- (y) “Specified information” means information in a children’s protective services case record related specifically to the department’s actions in responding to a complaint of child abuse or child neglect. Specified information does not include any of the following:
  - (i) Except as provided in this subparagraph regarding a perpetrator of child abuse or child neglect, personal identification information for any individual identified in a child protective services record. The exclusion of personal identification information as specified information prescribed by this subparagraph does not include

personal identification information identifying an individual alleged to have perpetrated child abuse or child neglect, which allegation has been classified as a central registry case.

- (ii) Information in a law enforcement report as provided in section 7(8).
- (iii) Any other information that is specifically designated as confidential under other law.
- (iv) Any information not related to the department's actions in responding to a report of child abuse or child neglect.
- (z) "Structured decision-making tool" means the department document labeled "DSS-4752 (P3)(3-95)" or a revision of that document that better measures the risk of future harm to a child.
- (aa) "Substantiated" means a child protective services case classified as a central registry case.
- (bb) "Unsubstantiated" means a child protective services case the department classifies under sections 8 and 8d as category III, category IV, or category V.

**History:** 1975, Act 238, Eff. Oct. 1, 1975; --Am. 1978, Act 252, Eff. Mar. 30, 1979; --Am. 1980, Act 511, Imd. Eff. Jan. 26, 1981; --Am. 1984, Act 418, Eff. Mar. 29, 1985; --Am. 1988, Act 372, Eff. Mar. 30, 1989; --Am. 1990, Act 212, Imd. Eff. Sept. 27, 1990; --Am. 1993, Act 251, Imd. Eff. Nov. 24, 1993. --Am. 1996, Act 581, Eff. Mar. 31, 1997; --Am. 1998, Act 428, Eff. Apr. 1, 1999; --Am. 1998, Act 483, Eff. Mar. 1, 1999; --Am. 1998, Act 484, Eff. July 1, 1999; --Am. 1998, Act 531, Eff. Jul. 1, 1999; --Am. 2000, Act 45, Eff. Mar. 27, 2000; --Am. 2002, Act 661, Eff. Dec. 23, 2002; --Am. 2002, Act 693, Eff. March 1, 2003; --Am. 2004, Act 563, Imd. Eff. Jan. 3, 2005; --Am. 2014, Act 30, Eff. Mar. 31, 2015.

**722.623 Individuals required to report child abuse or neglect; written report; transmitting report to county department; copies to prosecuting attorney and probate court; conditions requiring transmission of report to law enforcement agency; exposure to or contact with methamphetamine production; pregnancy of or venereal disease in child less than 12 years of age.**

**Sec. 3.**

- (1) An individual is required to report under this act as follows:
  - (a) A physician, dentist, physician's assistant, registered dental hygienist, medical examiner, nurse, person licensed to provide emergency medical care, audiologist, psychologist, marriage and family therapist, licensed professional counselor, social worker, licensed master's social worker, licensed bachelor's social worker, registered social service technician, social service technician, a person employed in a professional capacity in any office of the friend of the court, school administrator, school counselor or teacher, law enforcement officer, member of the

clergy, or regulated child care provider who has reasonable cause to suspect child abuse or neglect shall make immediately, by telephone or otherwise, an oral report, or cause an oral report to be made, of the suspected child abuse or neglect to the department. Within 72 hours after making the oral report, the reporting person shall file a written report as required in this act. If the reporting person is a member of the staff of a hospital, agency, or school, the reporting person shall notify the person in charge of the hospital, agency, or school of his or her finding and that the report has been made, and shall make a copy of the written report available to the person in charge. A notification to the person in charge of a hospital, agency, or school does not relieve the member of the staff of the hospital, agency or school of the obligation of reporting to the department as required by this section. One report from a hospital, agency, or school shall be considered adequate to meet the reporting requirement. A member of the staff of a hospital, agency, or school shall not be dismissed or otherwise penalized for making a report required by this act or for cooperating in an investigation.

- (b) A department employee who is 1 of the following and has reasonable cause to suspect child abuse or neglect shall make a report of suspected child abuse or neglect to the department in the same manner as required under subdivision (a):
    - (i) Eligibility specialist.
    - (ii) Family independence manager.
    - (iii) Family independence specialist.
    - (iv) Social services specialist.
    - (v) Social work specialist.
    - (vi) Social work specialist manager.
    - (vii) Welfare services specialist.
  - (c) Any employee of an organization or entity that as a result of federal funding statutes, regulations, or contracts, would be prohibited from reporting in the absence of a state mandate or court order. A person required to report under this subdivision shall report in the same manner as required under subdivision (a).
- (2) The written report shall contain the name of the child and a description of the abuse or neglect. If possible, the report shall contain the names and addresses of the child's parents, the child's guardian, the persons with whom the child resides, and the child's age. The report shall contain other information available to the reporting person that might establish the cause of the abuse or neglect, and the manner in which the abuse or neglect occurred.
  - (3) The department shall inform the reporting person of the required

contents of the written report at the time the oral report is made by the reporting person.

- (4) The written report required in this section shall be mailed or otherwise transmitted to the county family independence agency of the county in which the child suspected of being abused or neglected is found.
- (5) Upon receipt of a written report of suspected child abuse or neglect, the department may provide copies to the prosecuting attorney and the probate court of the counties in which the child suspected of being abused or neglected resides and is found.
- (6) If an allegation, written report, or subsequent investigation of suspected child abuse or child neglect indicates a violation of sections 136b and 145c or sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, and 750.520b to 750.520g, or section 7401c of the public health code, 1978 PA 368, MCL 333.7401c, involving methamphetamine has occurred, or if the allegation, written report, or subsequent investigation indicates that the suspected child abuse or child neglect was committed by an individual who is not a person responsible for the child's health or welfare, including, but not limited to, a member of the clergy, a teacher, or a teacher's aide, the department shall transmit a copy of the allegation or written report and the results of any investigation to a law enforcement agency in the county in which the incident occurred. If an allegation, written report, or subsequent investigation indicates that the individual who committed the suspected abuse or neglect is a child care provider and the department believes that the report has basis in fact, the department shall, within 24 hours of completion, transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child.
- (7) If a local law enforcement agency receives an allegation or written report of suspected child abuse or child neglect or discovers evidence of or receives a report of an individual allowing a child to be exposed to or to have contact with methamphetamine production, and the allegation, written report, or subsequent investigation indicates that the child abuse or child neglect or allowing a child to be exposed to or to have contact with methamphetamine production, was committed by a person responsible for the child's health or welfare, the local law enforcement agency shall refer the allegation or provide a copy of the written report and the results of any investigation to the county family independence agency of the county in which the abused or neglected child is found, as required by subsection (1) (a). If an allegation, written report or subsequent investigation indicates that the individual who committed the suspected abuse or neglect or allowed a child to be exposed to or to have contact with

methamphetamine production, is a child care provider and the local law enforcement agency believes that the report has basis in fact, the local law enforcement agency shall transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child. Nothing in this subsection or subsection (1) shall be construed to relieve the department of its responsibilities to investigate reports of suspected child abuse or child neglect under this act.

- (8) For purposes of this act, the pregnancy of a child less than 12 years of age or the presence of a venereal disease in a child who is over 1 month of age but less than 12 years of age is reasonable cause to suspect child abuse and neglect have occurred.
- (9) In conducting an investigation of child abuse or child neglect, if the department suspects that a child has been exposed to or has had contact with methamphetamine production, the department shall immediately contact the law enforcement agency in the county in which the incident occurred.

**History:** 1975, Act 238, Eff. Oct. 1, 1975; --Am. 1978, Act 252, Eff. Mar. 30, 1979; --Am. 1978, Act 573, Eff. Mar. 30, 1979; --Am. 1980, Act 511, Imd. Eff. Jan. 26, 1981; --Am. 1984, Act 418, Eff. Mar. 29, 1985; --Am. 1988, Act 372, Eff. Mar. 30, 1989; --Am. 1994, Act 177, Imd. Eff. June 20, 1994; --Am. 2002, Act 10, Eff. Feb. 14, 2002; --Am. 2002, Act 661, Eff. Dec. 23, 2002; --Am. 2002, Act 693, Eff. March 1, 2003; --Am. 2006, Act 264, Imd. Eff. July 6, 2006; --Am. 2006, Act 583, Imd. Eff. Jan. 3, 2007; --Am. 2008, Act 300, Imd. Eff. Oct. 8, 2008, --Am. 2008, Act 510, Imd. Eff. Jan. 13, 2009.

**Cited in other sections:** Section 722.623 is cited in MCL 330.1707.

**722.623a Knowledge or suspicion of alcohol, controlled substance, or metabolite of controlled substance in body of newborn infant; report required; exception.**

**Sec. 3a.**

In addition to the reporting requirement in section 3, a person who is required to report suspected child abuse or neglect under section 3(1) and who knows, or from the child's symptoms has reasonable cause to suspect, that a newborn infant has any amount of alcohol, a controlled substance, or a metabolite of a controlled substance in his or her body shall report to the department in the same manner as required under section 3. A report is not required under this section if the person knows that the alcohol, controlled substance, or metabolite, or the child's symptoms, are the result of medical treatment administered to the newborn infant or his or her mother.

**History:** Add. 1996, Act 581, Eff. Mar. 31, 1997.

## **722.624 Persons permitted to report child abuse or neglect.**

### **Sec. 4.**

In addition to those persons required to report child abuse or neglect under section 3, any person, including a child, who has reasonable cause to suspect child abuse or neglect may report the matter to the department or a law enforcement agency.

**History:** 1975, Act 238, Eff. Oct. 1, 1975; --Am. 1984, Act 418, Eff. Mar. 29, 1985.

**Cited in other sections:** Section 722.624 is cited in MCL 722.904.

## **722.625 Identity of reporting person; confidentiality; disclosure; immunity; good faith presumed.**

### **Sec. 5.**

Except for records available under section 7(2)(a), (b) and (n), the identity of a reporting person is confidential subject to disclosure only with the consent of that person or by judicial process. A person acting in good faith who makes a report, cooperates in an investigation, or assists in any other requirement of this act is immune from civil or criminal liability that might otherwise be incurred by that action. A person making a report or assisting in any other requirement of this act is presumed to have acted in good faith. This immunity from civil or criminal liability extends only to acts done according to this act and does not extend to a negligent act that causes personal injury or death or to the malpractice of a physician that results in personal injury or death.

**History:** 1975, Act 238, Eff. Oct. 1, 1975; --Am. 1988, Act 372, Eff. Mar. 30, 1989; --Am. 1994, Act 393, Imd. Eff. Dec. 29, 1994; --Am. 1998, Act 428, Eff. Apr. 1, 1999; --Am. 2004, Act 563, Imd. Eff. Jan. 3, 2005.

## **722.626 Detention of child in temporary protective custody; preliminary hearing; examinations; report; medical evaluation.**

### **Sec. 6.**

- (1) If a child suspected of being abused or neglected is admitted to a hospital or brought to a hospital for outpatient services and the attending physician determines that the release of the child would endanger the child's health or welfare, the attending physician shall notify the person in charge and the department. The person in charge may detain the child in temporary protective custody until the next regular business day of the probate court, at which time the probate court shall order the child detained in the hospital or in some other suitable place pending a preliminary hearing as required by section 14 of chapter 12A of Act No. 288 of the Public Acts of 1939, as amended, being section 712A.14 of the Michigan Compiled Laws, or order the child released to the child's parent, guardian or custodian.

- (2) When a child suspected of being an abused or neglected child is seen by a physician, the physician shall make the necessary examinations, which may include physical examinations, x-rays, photographs, laboratory studies, and other pertinent studies. The physician's written report to the department shall contain summaries of the evaluation, including medical test results.
- (3) If a report is made by a person other than a physician, or if the physician's report is not complete, the department may request a court order for a medical evaluation of the child. The department shall have a medical evaluation made without a court order if either of the following occurs:
  - (a) The child's health is seriously endangered and a court order cannot be obtained.
  - (b) The child is displaying symptoms suspected to be the result of exposure to or contact with methamphetamine production.

**History:** 1975, Act 238, Eff. Oct. 1, 1975; --Am. 1984, Act 418, Eff. Mar. 29, 1985; --Am. 2006, Act 266, Imd. Eff. July 6, 2006.

**722.627 Central registry; availability of confidential records; closed court proceeding not required; notice to individuals; amending or expunging certain reports and records; hearing; evidence; release of reports compiled by law enforcement agency; information obtained by citizen review panel; dissemination of information to pursue sanctions for dereliction of duty by agency employee.**

**Sec. 7.**

- (1) The department shall maintain a statewide, electronic central registry to carry out the intent of this act.
- (2) Unless made public as specified information released under section 7d, a written report, document, or photograph filed with the department as provided in this act is a confidential record available only to 1 or more of the following:
  - (a) A legally mandated public or private child protective agency investigating a report of known or suspected child abuse or child neglect or a legally mandated public or private child protective agency or foster care agency prosecuting a disciplinary action against its own employee involving child protective services or foster care records.
  - (b) A police or other law enforcement agency investigating a report of known or suspected child abuse or child neglect.
  - (c) A physician who is treating a child whom the physician reasonably suspects may be abused or neglected.
  - (d) A person legally authorized to place a child in protective custody when the person is confronted with a child whom the person reasonably suspects may be abused or neglected and



the confidential record is necessary to determine whether to place the child in protective custody.

- (e) A person, agency, or organization, including a multidisciplinary case consultation team, authorized to diagnose, care for, treat, or supervise a child or family who is the subject of a report or record under this act, or who is responsible for the child's health or welfare.
- (f) A person named in the report or record as a perpetrator or alleged perpetrator of the child abuse or child neglect or a victim who is an adult at the time of the request, if the identity of the reporting person is protected as provided in section 5.
- (g) A court for the purposes of determining the suitability of a person as a guardian of a minor or that otherwise determines that the information is necessary to decide an issue before the court. In the event of a child's death, a court that had jurisdiction over that child under section 2(b) of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.
- (h) A grand jury that determines the information is necessary in the conduct of the grand jury's official business.
- (i) A person, agency, or organization engaged in a bona fide research or evaluation project. The person, agency, or organization shall not release information identifying a person named in the report or record unless that person's written consent is obtained. The person, agency, or organization shall not conduct a personal interview with a family without the family's prior consent and shall not disclose information that would identify the child or the child's family or other identifying information. The department director may authorize the release of information to a person, agency, or organization described in this subdivision if the release contributes to the purposes of this act and the person, agency, or organization has appropriate controls to maintain the confidentiality of personally identifying information for a person named in a report or record made under this act.
- (j) A lawyer-guardian ad litem or other attorney appointed as provided by section 10.
- (k) A child placing agency licensed under 1973 PA 116, MCL 722.111 to 722.128, for the purpose of investigating an applicant for adoption, a foster care applicant or licensee or an employee of a foster care applicant or licensee, an adult member of an applicant's or licensee's household, or other persons in a foster care or adoptive home who are directly responsible for the care and welfare of children, to determine suitability of a home for adoption or foster care. The child placing agency shall disclose

the information to a foster care applicant or licensee under 1973 PA 116, MCL 722.111 to 722.128, or to an applicant for adoption.

- (l) Family division of circuit court staff authorized by the court to investigate foster care applicants and licensees, employees of foster care applicants and licensees, adult members of the applicant's or licensee's household, and other persons in the home who are directly responsible for the care and welfare of children, for the purpose of determining the suitability of the home for foster care. The court shall disclose this information to the applicant or licensee.
  - (m) Subject to section 7a, a standing or select committee or appropriations subcommittee of either house of the legislature having jurisdiction over child protective services matters.
  - (n) The children's ombudsman appointed under the children's ombudsman act, 1994 PA 204, MCL 722.921 to 722.932.
  - (o) A child fatality review team established under section 7b and authorized under that section to investigate and review a child death.
  - (p) A county medical examiner or deputy county medical examiner appointed under 1953 PA 181, MCL 52.201 to 52.216, for the purpose of carrying out his or her duties under that act.
  - (q) A citizen review panel established by the department. Access under this subdivision shall be limited to information the department determines is necessary for the panel to carry out its prescribed duties.
  - (r) A child care regulatory agency.
  - (s) A foster care review board for the purpose of meeting the requirements of 1984 PA 422, MCL 722.131 to 722.139a.
  - (t) A local friend of the court office.
- (3) Subject to subsection (9), a person or entity to whom information described in subsection (2) is disclosed shall make the information available only to a person or entity described in subsection (2). This subsection does not require a court proceeding to be closed that otherwise would be open to the public.
- (4) If the department classifies a report of suspected child abuse or child neglect as a central registry case, the department shall maintain a record in the central registry and, within 30 days after the classification, shall notify in writing each person who is named in the record as a perpetrator of the child abuse or child neglect. The notice shall be sent by registered or certified mail, return receipt requested, and delivery restricted to the addressee. The notice shall set forth the person's right to request expunction of the record and the right to a hearing if the department refuses the request. The

notice shall state that the record may be released under section 7d. The notice shall not identify the person reporting the suspect child abuse or child neglect.

- (5) A person who is the subject of a report or record made under this act may request the department to amend an inaccurate report or record from the central registry and local office file. A person who is the subject of a report or record made under this act may request the department to expunge from the central registry a report or record by requesting a hearing under subsection (6). A report or record filed in a local office file is not subject to expunction except as the department authorizes, if considered in the best interest of the child.
- (6) A person who is the subject of a report or record made under this act may, within 180 days from the date of service of notice of the right to a hearing, request the department hold a hearing to review the request for amendment or expunction. If the hearing request is made within 180 days of the notice, the department shall hold a hearing to determine by a preponderance of the evidence whether the report or record in whole or in part should be amended or expunged from the central registry. The hearing shall be held before a hearing officer appointed by the department and shall be conducted as prescribed by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department may, for good cause, hold a hearing under this subsection if the department determines that the person who is the subject of the report or record submitted the request for a hearing within 60 days after the 180-day notice period expired.
- (7) If the investigation of a report conducted under this act does not show child abuse or child neglect, by a preponderance of evidence, or if a court dismisses a petition based on the merits of the petition filed under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A2, because the petitioner has failed to establish that the child comes within the jurisdiction of the court, the information identifying the subject of the report shall be expunged from the central registry. If a preponderance of evidence of abuse or neglect exists, or if a court takes jurisdiction of the child under section 2(b) of chapter XIIA of the probate code of 1929, 1939 PA 288, MCL 712A.2, the department shall maintain the information in the central registry as follows:
  - (a) Except as provided in subdivision (b), for a person listed as a perpetrator in category I or II under section 8d, either as a result of an investigation or as a result of the reclassification of a case, the department shall maintain the information in the central registry for 10 years.
  - (b) For a person listed as a perpetrator in category I or II under section 8d that involved any of the circumstances listed in

section 17(1) or 18(1), the department shall maintain the information in the central registry until the department receives reliable information that the perpetrator of the abuse or neglect is dead. For the purpose of this subdivision, "reliable informatory" includes, but is not limited to, information obtained using the United States social security death index database.

(c) For a person who is the subject of a report or record made under this act before the effective date of the amendatory act that added this subdivision, the following applies:

(i) Except as provided in subparagraph (ii), for a person listed as perpetrator in category I or II under section 8d either as a result of an investigation or as a result of the reclassification of a case, the department may remove the information for a person describe in this subparagraph after 10 years without a request for amendment or expunction.

(ii) For a person listed as a perpetrator in category I or II under section 8d that involved any of the circumstances listed in section 17(a) or 18(1), the department shall maintain the information in the central registry until the department receives reliable information that the perpetrator of the child abuse or child neglect is dead. For the purpose of this subparagraph, "reliable information" includes, but is not limited to, information obtained using the United States social security death index database.

(8) In releasing information under this act, the department shall not include a report compiled by a police agency or other law enforcement agency related to an ongoing investigation of suspected child abuse or child neglect. This subsection does not prevent the department from releasing reports of convictions of crimes related to child abuse or child neglect.

(9) A member or staff member of a citizen review panel shall not disclose identifying information about a specific child protection case to an individual, partnership, corporation, association, governmental entity, or other legal entity. A member or staff member of a citizen review panel is a member of a board, council, commission, or statutorily created task force of a governmental agency for the purposes of section 7 of 1964 P.A. 170, MCL 691.1407. Information obtained by a citizen review panel is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) An agency obtaining a confidential record under subsection (2)(a) may seek an order from the court having jurisdiction over the child or from the family division of the Ingham County circuit court that allows the agency to disseminate confidential child protective services or foster care information to pursue sanctions for alleged dereliction,

malfeasance, or misfeasance of duty against an employee of the agency, to a recognized labor union representative of the employee's bargaining unit, or to an arbitrator or an administrative law judge who conducts a hearing involving the employee's alleged dereliction, malfeasance, or misfeasance of duty to be used solely in connection with that hearing. Information released under this subsection shall be released in a manner that maintains the greatest degree of confidentiality while allowing review of employee performance.

**History:** 1975, Act 238, Eff. Oct. 1, 1975; --Am. 1980, Act 511, Imd. Eff. Jan. 26, 1981; --Am. 1984, Act 418, Eff. Mar. 29, 1985; --Am. 1991, Act 78, Imd. Eff. July 18, 1991; --Am. 1993, Act 251, Imd. Eff. Nov. 24, 1993; --Am. 1994, Act 393, Imd. Eff. Dec. 29, 1994; --Am. 1995, Act 220, Eff. Dec. 1, 1995; --Am. 1995, Act 225, Eff. Dec. 14, 1995; --Am. 1997, Act 168, Eff. Mar. 31, 1998; --Am. 1998, Act 428, Eff. Apr. 1, 1999; --Am. 1998, Act 483, Eff. Mar. 1, 1999; --Am. 1998, Act 485, Eff. Aug. 1, 1999; --Am. 2000, Act 45, Eff. Mar. 27, 2000; --Am. 2002, Act 661, Imd. Eff. Dec. 23, 2003; --Am. 2004, Act 563, Imd. Eff. Jan. 3, 2005; --Am. 2006, Act 621, Imd. Eff. Jan. 3, 2007; --Am. 2008, Act 300, Imd. Eff. Oct. 8, 2008; --Am. 2014, Act 30, Eff. Mar. 31, 2015.

**722.627a Availability of information, reports, and records to legislature; disclosure of or keeping confidential information as misdemeanor.**

**Sec. 7a.**

- (1) The department shall make information contained in the central registry and reports and records made pursuant to this act available to a standing or select committee or appropriations subcommittee of either house of the legislature having jurisdiction over protective services matters for children subject to all of the following:
  - (a) The department shall not provide confidential information protected by section 7 to the committee unless the committee members appointed and serving agree by roll call vote that the information is essential for the protection of Michigan children or for legislative oversight of the protective services program and that the confidential information will only be considered at a closed session of the committee. The affirmative vote required by this subdivision shall be by not less than the super majority required by section 7 of the open meetings act, Act No. 267 of the Public Acts of 1976, being section 15.267 of the Michigan Compiled Laws, and may serve as the vote required under that section for holding a closed session.
  - (b) In addition to compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws, a closed session held under this section shall comply with all of the following:

- (i) Tape recording, camera, or other electronic equipment for documenting the proceedings shall not be permitted in the closed session.
  - (ii) Attendance at the closed session shall be limited to committee members, other members of the legislature and legislative staff at the discretion of the chairperson, and staff members from the department designated by the director.
- (2) A person who discloses or causes to be disclosed confidential information to which the person has gained access at a meeting held under this section is guilty of a misdemeanor. A person who keeps a confidential record or file, or a copy of a confidential record or file, at the conclusion of a closed session held under this section, which record or file is obtained at that meeting, is guilty of a misdemeanor.

**History:** Add. 1993, Act 251, Imd. Eff. Nov. 24, 1993.

**722.627b Child fatality review team; membership; review of child fatality; training and orientation; creation of advisory committee; publication of annual report; transmission of report to governor and legislature; disclosure of information; member of review team as member for purposes of MCL 691.1407.**

**Sec. 7b.**

- (1) Each county may have in place a standing child fatality review team. Two or more counties may appoint a single child fatality review team for those counties. The membership of a child fatality review team shall consist of at least all of the following:
  - (a) A county medical examiner or deputy county medical examiner appointed under 1953 PA 181, MCL 52.201 to 52.216.
  - (b) A representative of a local law enforcement agency.
  - (c) A representative of the department.
  - (d) The county prosecuting attorney or a designated assistant county prosecutor.
  - (e) A representative of the department of community health or a local health department.
  - (f) A representative of the local court.
- (2) A child fatality review team established under subsection (1) shall review each child fatality occurring in the county or counties that established the child fatality review team.
- (3) The department shall make available to each child fatality review team established under subsection (1) professional, interagency training and orientation on the review of child fatalities. The department shall make available, as necessary, training on specific types of child fatalities, investigation techniques, and prevention initiatives.
- (4) The department shall establish a multiagency, multidisciplinary

advisory committee to identify and make recommendations on policy and statutory changes pertaining to child fatalities and to guide statewide prevention, education, and training efforts.

- (5) The advisory committee created under subsection (4) consists of the following:
  - (a) Two representatives of the department.
  - (b) Two representatives of the department of community health.
  - (c) One county medical examiner.
  - (d) One representative of law enforcement.
  - (e) One county prosecuting attorney.
  - (f) The children's ombudsman or his or her designee.
  - (g) A representative of a state or local court.
- (6) The citizen review panel shall review each child fatality that involves allegations of child abuse or neglect for each child who, at the time of death or within the 12 months preceding the death, was under the court's jurisdiction under section 2(b) of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.
- (7) Beginning December 31, 2012, and using the annual compilation of child fatalities reported by the state registrar under part 28 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899, and data received from the child fatality review teams established under subsection (1) and the citizen review panel established under subsection (6), the advisory committee established under subsection (4) shall author an annual report on child fatalities reviewed during the previous calendar year. The advisory committee shall include in the report, at a minimum, all of the following:
  - (a) The total number of child fatalities and the type or cause of each child fatality.
  - (b) The number of child fatalities that occurred while the child was in foster care.
  - (c) The number of cases where the child's death occurred within 5 years after family preservation or family reunification.
  - (d) Trends in child fatalities.
- (8) The advisory committee established under subsection (4) shall break down the information required under subsection (7) by county or by groups of counties as described in subsection (1). The information contained in the report is public information. The advisory committee shall not include identifying information of persons named in the report. The advisory committee shall transmit the final report under subsection (7) to the department by December 31 of each year. Not less than 30 days and not more than 60 days after transmitting the report to the department, the department shall ensure publication of the report and transmit a copy to the governor and to the standing committees of the legislature with jurisdiction over matters pertaining to child protection.

- (9) Except as provided in subsection (11), information obtained by a child fatality review team established under subsection (1) is confidential and may be disclosed by the child fatality review team only to the department, the children's ombudsman, the county prosecutor's office, local law enforcement, or another child fatality review team. The information is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
- (10) An individual who is a member of a child fatality review team established under subsection (1) or of the advisory committee established under subsection (4) is a member of a board, council, commission, or statutorily created task force of a governmental agency for the purposes of section 7 of 1964 PA 170, MCL 691.1407.
- (11) The department shall establish and maintain a registry of statistical information regarding children's deaths that shall be accessible to the public. The registry created in this section shall not disclose any identifying information and shall only include statistical information covering all of the following:
  - (a) The number of children who died while under court jurisdiction for child abuse or neglect regardless of placement setting.
  - (b) The number of children who died as a result of child abuse or neglect after a parent had 1 or more child protective services complaints within the 2 years preceding the child's death and the category dispositions of those complaints.
  - (c) The total number of children as identified in subdivisions (a) and (b) who died in the preceding year.
  - (d) The child protective services disposition of the child fatality.

**History:** Add. 1997, Act 167, Eff. Mar. 31, 1998; —Am. 2011, Act 68, Imd. Eff. June 28, 2011; —Am. 2011, Act 89, Imd. Eff. July 15, 2011

**722.627c Release of information from child protective services records or case in which child has died; decision by director; determination.**

**Sec. 7c.**

- (1) Sections 7d to 7i govern the director's decisions to release specified information from child protective services records.
- (2) The director shall release specified information in a child abuse or neglect case in which a child who was a part of the case has died.
- (3) The director may designate another individual to act for the director under sections 7d to 7i, and a reference to the director under those sections applies to an individual designated by the director.
- (4) For the purposes of sections 7d to 7i, a child's best interest shall be determined based on all of the following:
  - (a) Protection of the child's safety.
  - (b) Preservation of the child's physical, mental, and emotional health.



- (c) Consideration of the child's likelihood of establishing a successful and timely permanent family and community relationship.
- (5) Sections 7d to 7i do not subject a report or record that is confidential under this act to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** Add. 1998, Act 428, Eff. Apr. 1, 1999; --Am. 2004, Act 563, Imd. Eff. Jan. 3, 2005.

**722.627d Release of information by director; preliminary decision to release or deny information; extension of time period; evidence.**

**Sec. 7d.**

- (1) Subject to sections 7c to 7i, at the director's initiative or upon written request, the director may release specified information. If a written request for specified information is submitted to the department, the director shall make a preliminary decision to release or to deny release of the specified information within 14 days after receipt of the request. After notifying the requester, the director may extend that time period for an additional 14 days if the additional time is necessary to research and compile the requested specified information.
- (2) The director may release specified information under this section if there is clear and convincing evidence that either of the following is true:
  - (a) The release of the specified information is in the best interest of the child to whom the specified information relates.
  - (b) The release of the specified information is not in conflict with the best interest of the child to whom the specified information relates, and 1 or more of the following are true:
    - (i) The release is in the best interest of a member of the child's family or of an individual who resides in the same home in which the child resides. For the purposes of this subparagraph, the child's family includes the child's parents, legal guardians, grandparents, and siblings.
    - (ii) The release clarifies actions taken by the department on a specific case.
    - (iii) The report or record containing the specified information concerns a child who has died or concerns a member of that child's family.
    - (iv) All or part of the report or record containing the specified information is publicly disclosed in a judicial proceeding.
    - (v) A child abuse or neglect complaint or investigation to which the report or record containing the specified information relates has been part of the subject matter of a published or broadcast media story.
    - (vi) The report or record containing the specified information

concerns a substantiated report of sexual abuse, serious injury, or life threatening harm involving the child or a sibling of the child identified in the request.

**History:** Add. 1998, Act 428, Eff. Apr. 1, 1999.

**722.627e Release of information by director; prohibitions.**

**Sec. 7e.**

- (1) The director shall not deny a request for specified information under section 7d based upon a desire to shield a lack of or an inappropriate performance by the department.
- (2) Regardless of the director's determination that specified information may be released under section 7d, the director shall not release the specified information if 1 or more of the following are true:
  - (a) The request for release does not include information sufficient to identify the specific case to which the request relates.
  - (b) An investigation of the report of child abuse or neglect to which the specified information relates is in progress and the report has not been substantiated or unsubstantiated.
  - (c) A hearing is pending under section 7(6).
  - (d) There is an ongoing criminal investigation and, as determined by the local prosecuting attorney, release would interfere with the criminal investigation.
  - (e) The individual who submits the request is serving a sentence of imprisonment in a state, county, or federal correctional facility in this state or in another state.
  - (f) The child to whom the report or record relates is 18 years of age or older.

**History:** Add. 1998, Act 428, Eff. Apr. 1, 1999.

**722.627f Release of information by director; preliminary decision to release or deny request; notice; final decision; writing; right to appeal.**

**Sec. 7f.**

- (1) Not less than 14 days before specified information is released or within 14 days after making a decision to deny a request for release of specified information under section 7d, the director shall give notice as provided in this subsection and section 7g of a preliminary decision to release or to deny a request to release specified information. The notice shall be in writing and shall be made by personal service or by registered or certified mail, return receipt requested and deliverable to the addressee only. The notice shall include at least all of the following:
  - (a) The basis on which the specified information is being released or the basis for denial of the request for release.
  - (b) A statement that the decision becomes a final decision unless

information that could be the basis for a different decision is submitted to the director in writing within 14 days after the notice is given.

- (c) A statement that there is a right to appeal a final decision as provided in section 7h. The notice shall include information regarding where to file the appeal and describing appellate procedures.
- (2) If, within 14 days after giving notice, the director does not receive information in writing that could be the basis for a different decision, the director's decision is final.
- (3) If the director does receive information as described in subsection (2), the director shall make a final decision to release or deny a request to release the specified information within 7 days after receipt of the information. The director shall give notice of a final decision made under this subsection to each individual required to be notified under section 7g(1) or (2). The notice required by this subsection shall be in writing and shall include at least notification of the right to appeal a final decision as provided in section 7h.

**History:** Add. 1998, Act 428, Eff. Apr. 1, 1999.

## **722.627g Release of information by director; individuals to be notified.**

### **Sec. 7g.**

- (1) If the director decides to release specified information under section 7d, the department shall give each notice required under section 7f to each of the following:
  - (a) Each individual named in the report as a perpetrator or an alleged perpetrator of the child's abuse or neglect, unless the individual named in the report has been convicted of a crime relating to the abuse or neglect, and no appeal is pending.
  - (b) Each parent or legal guardian of the child.
  - (c) Each attorney representing the child who is the subject of the case, or representing an individual listed in subdivision (a) or (b), if the department has notice of that representation.
  - (d) The child's guardian ad litem.
- (2) If the director denies a request for release of information under section 7d, the department shall notify only the requesting person.
- (3) If an individual required to be notified under subsection (1)(a) is named as a perpetrator of child abuse or neglect in a report that contains specified information requested to be released, and that individual was not previously notified under section 7(4), the department shall notify that individual as required by section 7(4) not less than 14 days before the specified information is released. If an individual who is required to be notified under this subsection requests expunction of the record within 14 days after the notice

is given, the specified information shall not be released under this section until the procedures governing expunction under section 7 are completed. If an individual who is required to be notified under this subsection does not request expunction within 14 days, the procedures for release of specified information under sections 7c to 7i shall be followed, and the individual does not have a right to appeal the decision to release.

**History:** Add. 1998, Act 428, Eff. Apr. 1, 1999.

## **722.627h Appeal of director's decision.**

### **Sec. 7h.**

- (1) Before the release of specified information under section 7d and except as provided in section 7g, an individual required to be notified under section 7g may appeal the director's decision to the circuit court. If an appeal is filed and the department notified before the release, the specified information shall not be released until the decision to release is upheld by the circuit court. If the director denies a request to release specified information under section 7d, within 30 days after notice of the denial, the person whose request is denied may file an appeal of the denial with the circuit court. The court shall uphold a decision to release or to deny release of specified information unless the court finds that the director's decision was an abuse of the director's discretion based upon the criteria for releasing or not releasing specified information prescribed by sections 7c to 7i.
- (2) Proceedings on an appeal filed under this section are confidential, and any record of these proceedings shall not be released unless the court upholds a decision to release specified information or reverses the denial of a request for release. The court shall conduct its review so that a person whose request for specified information was denied does not have access to that specified information during the appeal proceedings.
- (3) If the court reverses the director's decision to release or to deny release of specified information in an appeal under this section, the court may order the department to pay the appellant's costs and reasonable attorney fees that are related to the appeal.

**History:** Add. 1998, Act 428, Eff. Apr. 1, 1999.

## **722.627i Fee; federal assurances and waivers.**

### **Sec. 7i.**

- (1) The department may charge a fee for a copy of specified information released under section 7d in the same manner that a public body is authorized to charge a fee under section 4 of the freedom of information act, 1976 PA 442, MCL 15.234.
- (2) Sections 7c to 7i shall not be enforced and the family independence agency shall not utilize or implement those provisions unless the

family independence agency consults with and receives assurances from the federal government, including any necessary federal waivers, that utilization and implementation of those provisions do not jeopardize this state's receipt of federal money.

**History:** Add. 1998, Act 428, Eff. Apr. 1, 1999.

**722.627j Individual not named in central registry case as perpetrator of child abuse or neglect; documentation; receipt of central registry clearance information; request; automated system; definitions.**

**Sec. 7j.**

- (1) Upon written request, the department may provide to an individual, or whoever is appropriate, documentation stating that the individual is not named in a central registry case as the perpetrator of child abuse or child neglect.
- (2) An individual or the department may share the document provided in subsection (1) with whoever is appropriate for the purpose of seeking employment or serving as a volunteer if that employment or volunteer work will include contact with children.
- (3) An employer, a person or agency to whom an individual is applying for employment, or a volunteer agency, with appropriate authorization and identification from the individual, may request and receive central registry clearance information if that employment or volunteer work will include contact with children.
- (4) The department may develop an automated system that will allow an individual applying for child-related employment or seeking to volunteer in a capacity that would allow unsupervised access to a child for whom the individual is not a person responsible for that child's health or welfare to be listed in that system if a screening of the individual finds that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect. The automated system developed under this section shall provide for public access to the list of individuals who have been screened for the purposes of complying with this section. An automated system developed under this section shall have appropriate safeguards and procedures to ensure that information that is confidential under this act, state law, or federal law is not accessible or disclosed through that system.

**History:** Add. 2002, Act 716, Eff. March 31, 2003; --Am. 2004, Act 563, Imd. Eff. Jan. 3, 2005; --Am. 2008, Act 374, Imd. Eff. Dec. 23, 2008.

**722.627k Death of child under court jurisdiction; notification to legislator and children's ombudsman.**

**Sec. 7k.**

- (1) If a child dies who is under the court's jurisdiction under section 2(b) of chapter XIIA of the probate code of 1939; 1939 PA 288,

MCL 712A.2, the department shall provide notification in writing or electronically not later than 1 business day to the court that had jurisdiction over the child under section 2(b) of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, at the time of the child's death, the state senator and the state representative who represent the district in which that court is located, and the children's ombudsman.

- (2) The department shall notify the children's ombudsman within 1 business day when a child dies and any of the following apply:
  - (a) The child died during an active child protective services investigation or an open child protective services case.
  - (b) The department received a prior child protective services complaint concerning the child's caretaker.
  - (c) The child's death may have resulted from child abuse or neglect.

**History:** Add. 2011, Act 67, Imd. Eff. June 28, 2011.

**722.628 Referring report or commencing investigation; informing parent or legal guardian of investigation; duties of department; assistance of and cooperation with law enforcement officials; procedures; proceedings by prosecuting attorney; cooperation of schools or other institution; information as to disposition of report; exception to reporting requirement; surrender of newborn; training of employees on 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 shall 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), shall 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 shall refer the report to the department if the report meets the requirements of section 3(7) or shall 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 agency or the department shall inform the child's parent or legal guardian of the investigation as soon as the agency or the department discovers the identity of the child's parent or legal guardian.

- (2) In the course of its investigation, the department shall determine if the child is abused or neglected. The department shall 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 neglect; shall provide, enlist, and coordinate the necessary services, directly or through the purchase of services from other agencies and professions; and shall 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 shall 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 shall ensure that its policies, procedures, and administrative rules ensure compliance with the provisions of this act.
- (3) In conducting its investigation, the department shall seek the assistance of and cooperate with law enforcement officials within 24 hours after becoming aware that 1 or more of the following conditions exists:
  - (a) Abuse or neglect is the suspected cause of a child's death.
  - (b) The child is the victim of suspected sexual abuse or sexual exploitation.
  - (c) Abuse or neglect resulting in severe physical injury to the child requires medical treatment or hospitalization. For purposes of this subdivision and section 17, "severe physical injury" means an injury to the child that requires medical treatment or hospitalization and that seriously impairs the health or physical well-being of a 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 shall cooperate with the department in conducting investigations under subsections (1) and (3) and shall comply with sections 5 and 7. The department and law enforcement officials shall 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 neglect was committed by a person responsible for the child's health or welfare.

- (6) In each county, the prosecuting attorney and the department shall develop and establish procedures for involving law enforcement officials as provided in this section. In each county, the prosecuting attorney and the department shall adopt and implement standard child abuse and 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 (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 shall 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 shall 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 shall cooperate with the department during an investigation of a report of child abuse or 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 abuse or neglect of the child. The department shall 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 shall 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 shall 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 shall 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 such a search. If the access occurs within a hospital, the investigation shall be conducted so as not to interfere with the medical treatment of the child or other patients.
- (11) The department shall enter each report made under this act that is the subject of a field investigation into the CPSI system. The department shall maintain a report entered on the CPSI 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 abuse or neglect is dead. Unless made public as specified information released under section 7d, a report that is maintained on the CPSI 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 shall determine in which single category, prescribed by section 8d, to classify the allegation of child abuse or neglect.
- (13) Except as provided in subsection (14), 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.
- (14) If the person who made the report is mandated to report under section 3, upon completion of the investigation by the department, the department shall inform the person in writing as to the disposition of the case and shall 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.
- (15) Information sent under subsection (14) shall not include personally identifying information for a person named in a report or record made under this act.
- (16) 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 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.

- (17) All department employees involved in investigating child abuse or child neglect cases shall 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.
- (18) The department shall 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 neglect allegations result in any of the following dispositions:
  - (a) A finding that a preponderance of evidence indicates that there has been child abuse and neglect.
  - (b) Emergency removal of the child for child abuse and 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.
- (19) If the department determines that there is an open friend of the court case and the provisions of subsection (18) apply, the department shall 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 shall also report to the local friend of the court office when there is a change in that child's placement.
- (20) 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 neglect of his or her child.
- (21) If the department determines that there is an open friend of the court case, the department shall provide noncustodial parents 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, Eff. March 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 & 630, Eff. Jan. 3, 2007; --Am. 2008, Act 46, Imd. Eff. March 27, 2008; --Am. 2008, Act 300, Imd. Eff. Oct. 8, 2008.

**722.628a Execution of notices by prosecuting attorney of individuals bound over to circuit court for certain crimes; notification upon final disposition; confidentiality.**

**Sec. 8a.**

- (1) If an individual is bound over to circuit court for any of the following crimes, the prosecuting attorney shall execute the notices as prescribed by subsections (2) to (5):
  - (a) Criminal sexual conduct in the first, second, or third degree in violation of Section 520b, 520c, or 520d of the Michigan Penal Code, 1931 PA 328, MCL 750.520B, 750.520C, and 750.520D.
  - (b) Assault with intent to commit criminal sexual conduct in violation of Section 520g of the Michigan Penal Code, 1931 PA 328, MCL 750.520G.
  - (c) A felonious attempt or a felonious conspiracy to commit criminal sexual conduct.
  - (d) An assault on a child that is punishable as a felony.
  - (e) Child abuse in the first, second, or third degree, in violation of Section 136b of the Michigan Penal Code, 1931 PA 328, MCL 750.136B.
  - (f) Involvement in child sexually abusive material or child sexually abusive activity in violation of section 145c of the Michigan Penal Code, 1931 PA 328, MCL 750.145C.
- (2) If the individual is an employee of a nonpublic school as defined in Section 5 of the school code, 1976 PA 451, MCL 380.5, the prosecuting attorney shall notify the governing body of the nonpublic school.
- (3) If the individual is an employee of a school district or intermediate school district, the prosecuting attorney shall notify the superintendent of the school district or intermediate school district.
- (4) If the individual is an employee of the department who provides a service to children and youth as described in section 115 of the Social Welfare Act, 1939 PA 280, MCL 400.115, the prosecuting attorney shall notify the county director of social services or the superintendent of the training school.
- (5) If the individual is a child care provider, the prosecuting attorney shall notify the department, the owner or operator of the child care

provider organization or adult foster care location authorized to care for a child, and the child care regulatory agency with the authority over that child care organization or adult foster care location authorized to care for a child.

- (6) Upon final disposition of a criminal matter for which a notice was given under subsections (2) to (5), the prosecuting attorney shall notify each person previously notified under subsections (2) to (5) of that disposition.
- (7) A person who is notified or otherwise receives information under this section shall keep the information received confidential except so far as disclosure is necessary to take appropriate action in response to the information.

**History:** Add. 1992, Act 39, Eff. Mar. 31, 1993; --Am. 2002, Act 661, Eff. Dec. 23, 2002.

### **722.628b Referral of case to prosecuting attorney; review.**

#### **Sec. 8b.**

- (1) If a central registry case involves a child's death, serious physical injury of a child, or sexual abuse or exploitation of a child, the department shall refer the case to the prosecuting attorney for the county in which the child is located. The prosecuting attorney shall review the investigation of the case to determine if the investigation complied with the protocol adopted as required by section 8.
- (2) If a central registry case involves a child's exposure to or contact with methamphetamine production, the department shall refer the case to the prosecuting attorney for the county in which the child is located. The prosecuting attorney shall review the investigation of the case to determine whether the investigation complied with the protocol adopted as required by section 8.

**History:** Add. 1997, Act 168, Eff. Mar. 31, 1998; -- Am. 1999, Act 603, Eff. Jul., 1999; --Am. 2006, Act 263, Imd. Eff. July 6, 2006.

### **722.628c Interview with child.**

#### **Sec. 8c.**

During an investigation of suspected child abuse or neglect, the child reported to have been abused or neglected shall not be interviewed in the presence of an individual suspected to have perpetrated the abuse.

**History:** Add. 1997, Act 168, Eff. Mar. 31, 1998.

### **722.628d Categories and departmental response; listing in child abuse or neglect registry; report to legislature.**

#### **Sec. 8d.**

- (1) For the department's determination required by section 8, the categories, and the departmental response required for each category, are the following:

- (a) Category V - services not needed. Following a field investigation, the department determines that there is no evidence of child abuse or child neglect.
  - (b) Category IV - community services recommended. Following a field investigation, the department determines that there is not a preponderance of evidence of child abuse or child neglect, but the structured decision-making tool indicates that there is future risk of harm to the child. The department shall assist the child's family in voluntarily participating in community-based services commensurate with the risk to the child.
  - (c) Category III - community services needed. The department determines that there is a preponderance of evidence of child abuse or child neglect, and the structured decision-making tool indicates a low or moderate risk of future harm to the child. The department shall assist the child's family in receiving community-based services commensurate with the risk to the child. If the family does not voluntarily participate in services, or the family voluntarily participates in services, but does not progress toward alleviating the child's risk level, the department shall consider reclassifying the case as category II.
  - (d) Category II - child protective services required. The department determines that there is evidence of child abuse or child neglect, and the structured decision-making tool indicates a high or intensive risk of future harm to the child. The department shall open a protective services case and provide the services necessary under this act. The department shall also list the perpetrator of the child abuse or child neglect, based on the report that was the subject of the field investigation, on the central registry as provided in section 7(7), either by name or as "unknown" if the perpetrator has not been identified.
  - (e) Category I - court petition required. The department determines that there is evidence of child abuse or child neglect and 1 or more of the following are true:
    - (i) A court petition is required under another provision of this act.
    - (ii) The child is not safe and a petition for removal is needed.
    - (iii) The department previously classified the case as category II and the child's family does not voluntarily participate in services.
    - (iv) There is a violation, involving the child, of a crime listed or described in section 8a(1)(b), (c), (d), or (f) or of child abuse in the first or second degree as prescribed by section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b.
- (2) In response to a category I classification, the department shall do all of the following:

- (a) If a court petition is not required under another provision of this act, submit a petition for authorization by the court under section 2(b) of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.
  - (b) Open a protective services case and provide the services necessary under this act.
  - (c) List the perpetrator of the child abuse or child neglect, based on the report that was the subject of the field investigation, on the central registry as provided in section 7(7), either by name or as “unknown” if the perpetrator has not been identified.
- (3) The department is not required to use the structured decision-making tool for a nonparent adult who resides outside the child’s home who is the victim or alleged victim of child abuse or child neglect or for an owner, operator, volunteer, or employee of a licensed or registered child care organization or a licensed or unlicensed adult foster care family home or adult foster care small group home as those terms are defined in Section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.
  - (4) If following a field investigation the department determines that there is a preponderance of evidence that an individual listed in subsection (3) was the perpetrator of child abuse or child neglect, the department shall list the perpetrator of the child abuse or child neglect on the central registry as provided in section 7(7).

**History:** Add. 1998, Act 484, Eff. July 1, 1999; --Am. 2000, Act 45, Eff. March 27, 2000; --Am. 2002, Act 661, Eff. Dec. 23, 2002; --Am. 2006, Act 618, Imd. Eff. Jan. 3, 2007.

## **722.628e Investigation checklist.**

### **Sec. 8e.**

- (1) The department shall implement an investigation checklist to be used in each investigation of suspected abuse and neglect handled by the department.
- (2) Subject to subsections (3) and (4), an investigation shall not be closed until the checklist described in subsection (1) is completed.
- (3) A supervisor must review the completed checklist. If the supervisor determines that the investigation complies with the investigation checklist and with the following state laws and department policy, the investigation may be closed:
  - (a) Face-to-face contact was made with all alleged child victims.
  - (b) A petition was filed as required by sections 8d(1)(e), 17, and 18.
  - (c) A petition was filed when court intervention was needed to ensure child safety.
  - (d) Any other items that impact child safety and well-being that are specifically outlined in department policy to require the approvals outlined in subsection (4).

- (4) If the supervisor determines that the investigation does not comply with the investigation checklist and the state laws and department policy outlined in subsection (3), the supervisor shall determine the reason the investigation checklist and state law or department policy outlined in subsection (3) were not followed. An investigation that falls under this subsection shall not be closed until after the local office director has reviewed the investigation.

**History:** Add. 2008, Act 511, Eff. Apr. 1, 2009.

## **722.629 Multidisciplinary services; biennial report; continuing education programs; dissemination of information.**

### **Sec. 9.**

- (1) The department, in discharging its responsibilities under this act, shall provide, directly or through the purchase of services from other agencies and professions, multidisciplinary services such as those of a pediatrician, psychologist, psychiatrist, public health nurse, social worker, or attorney through the establishment of regionally based or strategically located teams. The department shall prepare a biennial report to the legislature containing information on the activities of the teams created pursuant to this subsection and including recommendations by the teams and the department regarding child abuse and neglect when committed by persons responsible for the child's health or welfare.
- (2) The department shall assure a continuing education program for department, probate court, and private agency personnel. The program shall include responsibilities, obligations, and powers under this act and the diagnosis and treatment of child abuse and neglect when committed by persons responsible for the child's health or welfare.
- (3) The department shall provide for the dissemination of information to the general public with respect to the problem of child abuse and neglect in this state and the facilities, prevention, and treatment methods available to combat child abuse and neglect when committed by persons responsible for the child's health or welfare.

**History:** 1975, Act 238, Eff. Oct. 1, 1975; --Am. 1984, Act 418, Eff. Mar. 29, 1985; --Am. 1988, Act 372, Eff. Mar. 30, 1989.

## **722.629a Annual report.**

### **Sec. 9a.**

The agency within the department that is responsible for administering and providing services under this act shall make an annual comprehensive report to the legislature that includes at least all of the following:

- (a) Statistical information including at least all of the following:
  - (i) Total reports of abuse and neglect investigated under this act and the number that were substantiated and unsubstantiated.

- (ii) Characteristics of perpetrators of abuse and neglect and the child victims such as age, sex, relationship, socioeconomic status, race, and ethnicity.
- (iii) The occupation or description listed under section 3 in which the individual who made the report fits, or other description if the individual is not within a group required to report under this act.
- (iv) Statistics relating to the central registry such as number of individuals and their characteristics.
- (v) Statistics relating to the basis for determining that reported cases of abuse or neglect are unsubstantiated.
- (b) Policy related to child protective services including, but not limited to, major policy changes and court decisions affecting the administration of this act.

**History:** Add. 1998, Act 428, Eff. Apr. 1, 1999.

### **722.630 Lawyer-guardian ad litem.**

#### **Sec. 10.**

In each case filed under this act in which judicial proceedings are necessary, the court shall appoint a lawyer-guardian ad litem to represent the child. A lawyer-guardian ad litem represents the child and has powers and duties in relation to that representation as set forth in section 17d of chapter XIIA of 1939 PA 288, MCL 712A.17d. All provisions of section 17d of chapter XIIA of 1939 PA 288, MCL 712A.17d, apply to a lawyer-guardian ad litem appointed under this act.

**History:** 1975, Act 238, Eff. Oct. 1, 1975; --Am. 1998, Act 483, Eff. Mar. 1, 1999.

### **722.631 Privileged communications.**

#### **Sec. 11.**

Any legally recognized privileged communication except that between attorney and client or that made to a member of the clergy in his or her professional character in a confession or similarly confidential communication is abrogated and shall not constitute grounds for excusing a report otherwise required to be made or for excluding evidence in a civil child protective proceeding resulting from a report made pursuant to this act. This section does not relieve a member of the clergy from reporting suspected child abuse or child neglect under section 3 if that member of the clergy receives information concerning suspected child abuse or child neglect while acting in any other capacity listed under section 3.

**History:** 1975, Act 238, Eff. Oct. 1, 1975; --Am. 2002, Act 693, Eff. March 1, 2003.

**Cited in other sections:** Section 722.631 is cited in MCL 600.2157a.



## **722.632 Report to law enforcement officials or probate court.**

### **Sec. 12.**

This act shall not prohibit a person who has reasonable cause to suspect child abuse or neglect from making a report to the appropriate law enforcement officials or probate court.

**History:** 1975, Act 238, Eff. Oct. 1, 1975.

## **722.632a Investigations by hospital, school, or other agency.**

### **Sec. 12a.**

This act does not preclude or hinder a hospital, school, or other agency from investigating reported claims of child abuse or neglect by its employees or from taking disciplinary action based upon that investigation against its employees.

**History:** Add. 1988, Act 372, Eff. Mar. 30, 1989.

## **722.633 Failure to report suspected child abuse or neglect; damages; violation as misdemeanor; unauthorized dissemination of information as misdemeanor; civil liability; maintaining report or record required to be expunged as misdemeanor; false report of child abuse or neglect.**

### **Sec. 13.**

- (1) A person who is required by this act to report an instance of suspected child abuse or neglect and who fails to do so is civilly liable for the damages proximately caused by the failure.
- (2) A person who is required by this act to report an instance of suspected child abuse or neglect and who knowingly fails to do so is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.
- (3) Except as provided in section 7, a person who disseminates, or who permits or encourages the dissemination of, information contained in the central registry and in reports and records as provided in this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both, and is civilly liable for the damages proximately caused by the dissemination.
- (4) A person who willfully maintains a report or record required to be expunged under section 7 is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.
- (5) A person who intentionally makes a false report of child abuse or neglect under this act knowing that the report is false is guilty of a crime as follows:
  - (a) If the child abuse or neglect reported would not constitute a crime or would constitute a misdemeanor if the report were true, the person is guilty of a misdemeanor punishable by

imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

- (b) If the child abuse or neglect reported would constitute a felony if the report were true, the person is guilty of a felony punishable by the lesser of the following:
  - (i) The penalty for the child abuse or neglect falsely reported.
  - (ii) Imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

**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. 1993, Act 56, Imd. Eff. June 9, 1993; --Am. 1994, Act 393, Imd. Eff. Dec. 29, 1994; --Am. 1996, Act 309, Eff. Jan. 1, 1997; --Am. 2002, Act 14, Eff. Feb. 19, 2002.

## **722.634 Religious beliefs.**

### **Sec. 14.**

A parent or guardian legitimately practicing his religious beliefs who thereby does not provide specified medical treatment for a child, for that reason alone shall not be considered a negligent parent or guardian. This section shall not preclude a court from ordering the provision of medical services or nonmedical remedial services recognized by state law to a child where the child's health requires it nor does it abrogate the responsibility of a person required to report child abuse or neglect.

**History:** 1975, Act 238, Eff. Oct. 1, 1975.

## **722.635 Repeal of MCL 722.571 to 722.575.**

### **Sec. 15.**

Act No. 98 of the Public Acts of 1964, being sections 722.571 to 722.575 of the Compiled Laws of 1970, is repealed.

**History:** 1975, Act 238, Eff. Oct. 1, 1975.

## **722.636 Effective date.**

### **Sec. 16.**

This act shall take effect October 1, 1975.

**History:** 1975, Act 238, Eff. Oct. 1, 1975.

## **722.637 Submission of petition for authorization under § 712A.2; exception.**

### **Sec. 17.**

Except as provided in subsection (2), within 24 hours after the department determines that a child was severely physically injured as defined in section 8 or sexually abused, or allowing a child to be exposed to or to have contact with methamphetamine production, the department shall submit a petition for authorization by the court under section 2(b) of chapter X1IA of 1939 PA 288, MCL 712A.2.

- (2) The department is not required to file a petition for authorization by the court as described in subsection (1) if the department determines that the parent or legal guardian is not a suspected perpetrator of the abuse and the department determines that all of the following apply:
  - (a) The parent or legal guardian did not neglect or fail to protect the child.
  - (b) The parent or legal guardian does not have a historical record that shows a documented pattern of neglect or failing to protect the child.
  - (c) The child is safe in the parent's or legal guardian's care.

**History:** Add. 1997, Act 168, Eff. Mar. 31, 1998; --Am. 2006, Act 256, Imd. Eff. July 6, 2006; --Am. 2006, Act 630, Imd. Eff. Jan. 3, 2007.

**722.638 Submission of petition for authorization under MCL 712A.2; conditions; request for termination of parental rights; conference.**

**Sec. 18.**

- (1) The department shall submit a petition for authorization by the court under section 2(b) of chapter XIA of 1939 PA 288, MCL 712A.2, if 1 or more of the following apply:
  - (a) The department determines that a parent, guardian, or custodian, or a person who is 18 years of age or older and who resides for any length of time in the child's home, has abused the child or a sibling of the child and the abuse included 1 or more of the following:
    - (i) Abandonment of a young child.
    - (ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.
    - (iii) Battering, torture, or other severe physical abuse.
    - (iv) Loss or serious impairment of an organ or limb.
    - (v) Life threatening injury.
    - (vi) Murder or attempted murder.
  - (b) The department determines that there is risk of harm to the child and either of the following is true:
    - (i) The parent's rights to another child were terminated as a result of proceedings under section 2(b) of chapter XIA of 1939 PA 288, MCL 712A.2, or a similar law of another state.
    - (ii) The parent's rights to another child were voluntarily terminated following the initiation of proceedings under section 2(b) of chapter XIA of 1939 PA 288, MCL 712A.2, or a similar law of another state and the proceeding involved abuse that include 1 or more of the following:
      - (A) Abandonment of a young child.
      - (B) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.

- (C) Battering, torture, or other severe physical abuse.
  - (D) Loss or serious impairment of an organ or limb.
  - (E) Life-threatening injury.
  - (F) Murder or attempted murder.
  - (G) Voluntary manslaughter.
  - (H) Aiding and abetting, attempt to commit, conspiring to commit, or soliciting murder or voluntary manslaughter.
- (2) In a petition submitted as required by subsection (1), if a parent is a suspected perpetrator or is suspected of placing the child at an unreasonable risk of harm due to the parent's failure to take reasonable steps to intervene to eliminate that risk, the family independence agency shall include a request for termination of parental rights at the initial dispositional hearing as authorized under section 19b of chapter XIA of 1939 PA 288, MCL 712A.19b.
- (3) If the department is considering petitioning for termination of parental rights at the initial dispositional hearing as authorized under section 19b of chapter XIA of 1939 PA 288, MCL 712A.19b, even though the facts of the child's case do not require departmental action under subsection (1), the department shall hold a conference among the appropriate agency personnel to agree upon the course of action. The department shall notify the attorney representing the child of the time and place of the conference, and the attorney may attend. If an agreement is not reached at this conference, the department director or the director's designee shall resolve the disagreement after consulting the attorneys representing both the department and the child.

**History:** Add. 1997, Act 168, Eff. Mar. 31, 1998; --Am. 1998, Act 383, Eff. Mar. 23, 1999; -- Am. 1998, Act 428, Imd. Eff. Dec. 30, 1998.

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# Children's Reports of Body Touching in Medical Examinations: The Benefits and Risks of Using Body Diagrams

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In 3 sections of the same interview, children ( $N = 107$ , ages 3–8 years) were asked about body touches during previous medical examinations that included genital and anal touches for some children. First, in a free recall phase all children were asked to describe what had happened during the medical procedures. In the second and third sections they answered questions about body touches in 2 conditions, with body diagrams (BDs) and without body diagrams (no-BDs), with the order of conditions counterbalanced. Within each interview condition, the children answered cued-recall questions about touching and a set of recognition (yes-no) questions about touches to individual body parts. Cued recall with BDs elicited a greater number of correct sexual touch reports, but also more forensically relevant errors from the younger group. Cued-recall performance with BDs was largely identical to recognition performance without BDs. Taken together, the paucity of research on BDs and the current findings suggest 2 interim conclusions: (a) the use of BDs to elicit touch disclosures is not yet an evidence-based practice, and (b) there is a pressing need for research that examines promising approaches for encouraging accurate disclosures of abuse.

**Keywords:** forensic interviewing of children, interview aids, body diagrams

For more than a quarter century, researchers and practitioners have worked to identify the best ways to interview children suspected of having been abused. Practices garnering widespread empirical support for increasing the amount of accurate information include adequate rapport-building (Hershkowitz, Lamb, Katz, & Malloy, 2015), narrative practice followed by many open-ended prompts (Lyon et al., 2014), and nonsuggestive encouragement to continue talking (e.g., facilitators like “Um hmm,” pauses; Powell & Snow, 2007). Empirically supported strategies for reducing errors include a supportive (but not suggestive) interviewer demeanor (Bottoms, Quas, & Davis, 2007), ground rules instructions with practice opportunities (Brubacher, Poole, & Dickinson, 2015), and avoidance of suggestive prompts (Lamb, Hershkowitz, Orbach, & Esplin, 2008).

Despite the increased consensus regarding some core principles of child interviewing, debate continues about the best methods for eliciting abuse disclosures. Children do not always disclose for a number of reasons, including social and emotional factors (e.g., fear, embarrassment about discussing sexual topics), memory failures, and other cognitive issues (e.g., insufficient linguistic and conceptual foundations to construct coherent narratives about the past; Lyon, 2014). To overcome these barriers, some interviewers use props. Most commonly, anatomically detailed dolls and body diagrams (BDs, which are two-dimensional drawings of children) are used in an attempt to cue memory retrieval by allowing children to respond by pointing without verbalizing (Pipe & Salmon, 2009). This paper focuses on the implications of using BDs to elicit disclosures of touching. (See Brown, 2011, for a discussion of other uses.)

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## Research on Body Diagrams

Most research on the impact of interview props has investigated anatomically detailed dolls. Dozens of peer reviewed studies and numerous commentaries have included discussions of children's interactions with dolls, how dolls shift the number of true and false reports, and how dolls affect interviewers' behavior. It is difficult to extract a single conclusion from this body of evidence due to differences in the ages studied and the diversity of the methods used. Today, summary conclusions range from the claim that dolls add value to interviews without promoting false disclosures (at least among children who understand the representational nature of the dolls; Faller, 2007) to the claim that dolls do not consistently help young children and incur a concerning risk of false reports (Poole & Bruck, 2012).

Due to the controversy surrounding dolls, their popularity gradually declined from the late 1980s onward (cf., Conte, Sorenson, Fogarty, & Rosa, 1991; Hlavka, Olinger, & Lashley, 2010) as some protocols omitted dolls altogether and others recommended their use only after a verbal report of abuse (e.g., American Professional Society on the Abuse of Children, 2012). Seeking an alternative that would not require asking yes-no questions about touches to individual body parts, some interviewers and policy-makers turned to BDs. In 2002 and 2007, two interviewer training projects in the U.S. adopted the RATAC protocol, which was developed by staff members at a child abuse evaluation center called CornerHouse. This procedure included a segment in which an interviewer asked the child to name nongenital and genital/anal body parts depicted on BDs and then asked if the child had been touched on any of those parts. If the child said “yes,” the interviewer would ask the child to point to where s/he had been touched before asking for event descriptions. Owing to the impact of the training projects, BD-assisted interviewing (RATAC and its offspring in the field) had become one of the most widely used interview styles in the U.S. by 2014 (Anderson, Anderson, & Gilgun, 2014; see Anderson et al., 2010, for a discussion of RATAC; see Faller, 2015, for a historical review and description of updates to the CornerHouse Forensic Interview Protocol).

BDs became popular with little empirical evidence regarding the accuracy of reports elicited with and without these aids. Prior to the current study, only one study had examined this issue in the context of children’s reports of outpatient medical examinations that included genital and/or anal touches for some children. Steward et al. (1996) questioned 3- to 6-year-olds about their examinations, including a subset who were examined for sexual abuse investigations. Children were assigned to a verbal interview condition or one of three prop-assisted interview conditions: with dolls, BDs, or BDs displayed on a computer. Prop-assisted questions paralleled those for the verbal condition but included an additional set of yes-no questions (termed “double check” questions) about body touches the child had not mentioned. Accuracy rates immediately after examinations and at 1- and 6-month delays were reported for the verbal interview and the combined scores of the three prop-assisted conditions, with two exceptions: During double check questions children in the BD condition were asked about touching to the buttocks (i.e., “Were you touched there?” while pointing to the buttocks), whereas children in the doll condition were asked about touching to the anus. At the 1-month interview, only 6% of children in the verbal condition who had experienced touching to the buttocks spontaneously disclosed this touch, but 55% of touched children did so in the BD condition (before yes-no questions). Moreover, only 8% of nontouched children spontaneously (before yes-no questions) made a false report of touching to the buttocks with BDs (vs. none in the verbal condition).

Although Steward and colleagues’ (1996) findings are cited to support diagram-assisted interviewing, there are several reasons why this conclusion is unwarranted. Due to small sample sizes, confidence intervals for the reported percentages are large, making it difficult to assess the risk of false reports (e.g., the 95% confidence interval for the aforementioned false report rate ranges from 2% to 25%). Also, tabulated data did not separate children 5 years and younger or list genital reporting rates separately for doll versus BD conditions. However, the researchers did say that only children

assigned to the BD condition made spontaneous false reports of genital touching at the 1-month interview. Because yes-no questions were always delivered with an interview aid, it is also unknown whether aids were responsible for the increased disclosures observed in this section of the interview. Finally, the inclusion of an interview immediately after the target event could have consolidated children’s memories, thereby minimizing errors in later interviews. Due to these and other issues (e.g., all children with confirmed sexual abuse were assigned to the prop-assisted interviews; see pp. 73–74), it is not possible to draw clear conclusions about the pros and cons of using BDs from this study alone.

Other studies involving innocuous touches provide converging evidence that asking questions about touching with a BD often increases true (Brown, Pipe, Lewis, Lamb, & Orbach, 2012; Otgaar, Horselenberg, van Kampen, & Lalleman, 2012; Poole & Dickinson, 2011) as well as false reports (Brown, Pipe, Lewis, Lamb, & Orbach, 2007, 2012; Bruck, 2009; Otgaar et al., 2012; Poole & Dickinson, 2011). For example, Brown et al. (2012) interviewed children (5- to 7-years-old) about a prior staged event in which they were touched while dressing and undressing in costumes. Compared to a no-BD condition, BDs elicited a greater number of details after a 7-month (but not a 1-month) delay, but a higher proportion of details were inaccurate in the BD condition: 78% and 77% of the details were inaccurate for two BD conditions (without and with pretraining) compared with an error rate of 30% in the verbal (no-BD) condition. The researchers concluded that “asking children to talk about innocuous touch may lead them to report unreliable information, especially when human body diagrams are used as aids and repeated interviews are conducted across delays that resemble those typical of forensic contexts” (p. 174).

It is important to note that although forensically relevant errors have been infrequent in analog studies, some children did point to concerning areas on BDs. With BDs depicting clothed children, 11% of the 5- and 6-year-olds in one sample falsely reported touches around the genital area, and 26% falsely reported touching around the breast area (although lack of a verbal control group precludes comparing interviews with and without BDs; Willcock, Morgan, & Hayne, 2006, Experiment 1). Similarly, 12% of children 5 years and younger in another study pointed to a concerning area on the BD (the breast and just above and below the groin; Poole, Dickinson, Brubacher, Liberty, & Kaake, 2014; see also Otgaar et al., 2012). It is unclear, however, if children would have made these errors had the BDs clearly depicted breasts and genitalia, and a study that directly compared BD and verbal interviews found similar rates of forensically relevant errors across conditions (7.5% vs. 5.6%, respectively; Brown et al., 2012).

It is interesting that some children older than 4 years made erroneous points to BDs even when touches were marked on their bodies with a sticker (Lytle, London, & Bruck, 2015). Although this finding suggests that a minority of school-age children still lack the cognitive machinery to reliably report touches by pointing, the age when problems typically resolve is unknown. Only three studies compared reports with and without a diagram and also described age trends. Most children who made spontaneous intrusions (nonsuggested false reports) were less than 7 years in one study (Poole et al., 2014), but age by condition interactions did not reach significance in two others (Bruck, 2009; Otgaar et al., 2012).

The impact of pairing BDs with yes-no questions is also unclear: BDs reduced recognition accuracy in Brown et al.'s (2012) study (the diagram without instruction group vs. no diagram group) but not in Bruck's (2009). Without BDs, children's responses to recognition questions are typically less accurate than their responses to more open question forms (e.g., Peterson, Dowden, & Tobin, 1999), partly due to response biases that vary depending on a number of factors (e.g., question comprehensibility; see Rocha, Marche, & Briere, 2013, for a review). It is not obvious whether BDs alter these biases, however. Adding unclothed BDs could improve recognition accuracy by clarifying the location under discussion or, alternatively, decrease accuracy by serving as a distractor (thereby increasing thoughtless responses) or by cuing memories of touching experiences other than those under investigation.

In sum, there is scant information about the benefits and risks of BDs on (a) reports of genital and anal touching, (b) younger (less than 6 years) versus older children, or (c) reports elicited with yes-no questions. As a result, it is unclear whether asking children to report touching by pointing to a BD (i.e., showing) is functionally different from simply asking yes-no questions about genital and anal touching without BDs (i.e., directly asking). The current study is a step toward addressing these issues.

### The Current Study

For this study, an interviewer questioned three groups of children about a recent medical appointment: (a) children who had received a medical examination involving genital and anal touching at a sexual abuse clinic (SAC), (b) children who had received a medical examination involving an anal probe but no genital touching at gastrointestinal clinics (GICs), and (c) children from the same GICs who had received medical examinations without any anal or genital touching. Approximately one week after their clinic visits (median = 7 days, range = 5 to 14 days), the interviewer asked each child to describe what had happened during the medical examination (free recall). This free recall procedure was always delivered at the beginning of the interview and was not repeated again. Next, the interviewer asked cued recall questions about which body parts the doctor had touched, followed by yes-no questions about touching to specific body parts (recognition). Each child answered the cued-recall and recognition questions in one interview condition—with BDs (BD condition) or without body diagrams (no-BD condition)—and then answered these same questions in the remaining condition. The order of the interview conditions was counterbalanced across children (BD first/no-BD second or no-BD first/BD second). By treating condition as a within subject variable and counterbalancing condition order, we had more power to detect condition differences should order effects be nonsignificant.

### Method

#### Participants

Children 3 to 8 years were recruited from one SAC in Baltimore and two pediatric GICs staffed by specialists at the Johns Hopkins Medical Institution and at the Greater Baltimore Medical Center. Those who attended the SAC ( $n = 55$ ) received a medical exam-

ination involving genital and anal examinations. Most of the GIC children had an anal examination (35 of 52), but none had a genital examination. We refer to the two groups of GIC children as the examined and unexamined GIC children. Of the 133 parents who granted written consent at the time of their children's initial medical examinations, 107 scheduled the memory interview (80% retention). The total sample was racially diverse (39% Caucasian, 53% African American, and 10% Other), but the SAC sample was primarily African American (81%), whereas the GIC sample was primarily Caucasian (84%).

We entered age (in months) as a continuous variable into factorial analyses but categorized the children into two age groups to table data and to parse interactions involving age: younger (3–5 years,  $n = 50$ ) and older (6–8 years,  $n = 57$ ). There were 30 younger and 25 older children in the SAC group versus 20 younger and 32 older in the GIC group.

#### Recruitment Procedures

The following procedures were approved by a university institutional review board. In order to be eligible to participate in the study, the child's legal guardian had to be present at the medical appointment, speak English, and be available for a follow-up interview. Based upon parent and physician report, the child had to be developmentally on target and be able to verbalize during the interview. Finally, only children experiencing their first visit to the clinic were included in the sample. The examining physicians or their assistants described this memory study to parents of potential participants prior to the medical examination, after which a research assistant explained the study details, supervised the informed consent process, and set up a convenient date for the memory interview.

#### Physical Examination Procedures

Prior to the examination, an experimenter who would later serve as the interviewer gave the child a sticker and a small toy prize. The child then entered the examining room, sometimes with a relative. The research assistant was never present in the examining room.

Children recruited from the SAC received a full medical examination including ano-genital examinations with colposcopic photographs. As part of the medical protocol for children with suspected or confirmed abuse, a physician touched each child in several places using instruments that included gloves, light, camera, stethoscope, otoscope, ophthalmoscope, and a knee hammer. Some children had blood drawn.

Children recruited from the outpatient pediatric GICs were referred for a variety of symptoms including constipation, recurrent abdominal pain, and inflammatory bowel disease. During the initial examination, most ( $n = 35$ )—but not all ( $n = 17$ )—of the children had a rectal examination involving touches by the doctor to several body parts using instruments that included gloves, medical lubricant, stethoscope, otoscope, ophthalmoscope, and a knee hammer. None of the children experienced genital touches during the GI examinations. Afterward, some children were sent for blood tests or X-rays.

At the end of each medical examination, the examining physician completed a 22-item medical checklist developed by the team



of examining physicians for this study. Items reflected basic procedures used across a variety of clinics (although some children did not experience all 22 procedures). The items, selected because they were directly recorded into medical records immediately after examinations (for billing and reporting purposes), included touches to the forehead, eyes, nose, tongue, lips (mouth), teeth, chin, ears, hair, neck, chest, stomach, bellybutton, back, knees, ankle, toes, heel, elbow, thumb, genitals, and anus. The examining physician marked each item as “touched” or “not touched,” made a note of the instruments used for each touch, and indicated if the child experienced additional medical procedures after the examination, such as blood draws or X-rays. The checklist also contained information about the date and location of the examination as well as the relationship of the child to other people present in the room during the examination. Checklist information was shared with the research assistant, but the child’s medical record was not collected.

## Memory Interview

Five to 14 days after their medical examinations (median = 7 days, range = 5 to 14 days), the children participated in a 15–25 min memory interview at a convenient location for their parents (either the medical clinic, where the interview occurred in different set of rooms than the examination area, the investigator’s laboratory, or a public but quiet place close to their residence). Before each interview began, a parent completed a questionnaire regarding the depth of conversation the child had had with parents after the examination, if the child had seen other doctors since the target examination, and the names the child uses for genital and anal areas. Answers on this form helped the interviewer accurately inquire about the medical examination and use terminology the child understood. The following major sections of the memory interview are summarized in Figure 1.

**Warm-up and topic identification.** The interviewer met alone with each child. Sessions started with a warm-up involving an initial conversation and a joint play activity (e.g., puzzle, sticker book, small crafts project). The interviewer then established the topic by asking if the child knew (a) why the two were meeting, (b) what prize the child had received from the interviewer at the target examination, and (c) what people had been in the examination room (doctor, sex of doctor, or anyone else in the room). Next, she explained that the purpose of the current visit was to see how much the child could remember about the doctor’s visit when she had given the child a prize and sticker. Then the memory testing began.

**Free recall prompts.** The interviewer asked the child to describe what had happened during the medical examination using open-ended prompts:

I want to hear about everything that happened. I am going to write down everything you say so that I can remember. So tell me everything you can remember about what happened. When you tell the story of what happened, there should be a beginning, a middle, and an end. So I want you to start right when you came into the room to see the doctor. I want you to end when you left the room. Okay, let’s start. So what was the first thing that happened when you went into the room? (Wait for response.) You are doing so well. So then what happened? (Wait for response.) Then what happened at the end?

**Cued-recall (where touched?) questions.** During cued-recall, the interviewer asked where the child had been touched during the

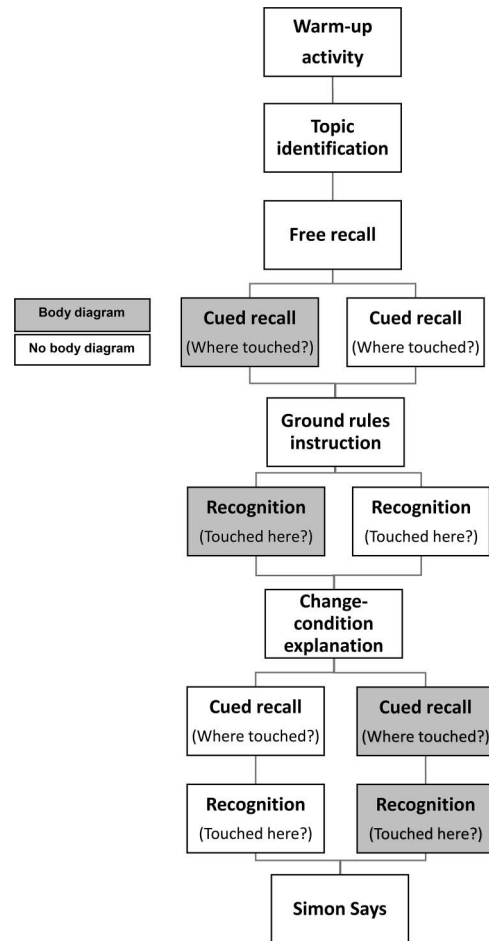


Figure 1. Sections of the memory interview for all children (center), children first questioned about touching with body diagrams (left), and children first questioned about touching without body diagrams (right).

medical examination. For the BD condition, the interviewer displayed two BDs of a child who was the same gender and race as the participating child, one showing the front view of the body and one showing the back. The BDs were ones used in actual abuse interviews (i.e., they were unclothed and depicted the genital and buttock regions). After placing the front and back views of the BDs in front of the child, the interviewer gave the child a marker and asked, “Can you please point to where the doctor touched you and make a dot at each place?” For each body part indicated as touched, the interviewer then asked, “You said s/he touched you here (pointing to the body part). Can you tell me more about when s/he touched you here?” followed by “Can you point to anywhere else s/he touched you?” At the end of these questions, the interviewer asked, “Did the doctor put a bandage on you?” followed by, “Did the doctor give you a needle?” If the child assented, the interviewer asked the child to show on the BD where the bandage and/or needle was placed.

For the no-BD question block, the interviewer said, “Tell me all of the places on your body where the doctor touched you. You know, like which body parts?” When the child had finished, the interviewer asked, “Did the doctor touch you anywhere else?”

Once the child stated that was all that could be remembered, the interviewer asked the following for each body part mentioned: "You said s/he touched your (child's response). Can you tell me more about when s/he touched your (child's response)?" Next, the interviewer asked the bandage and needle questions.

**Ground rules instruction for recognition questions.** Prior to asking the first set of recognition (yes-no) questions, the interviewer emphasized the need for thoughtful responses with the following instructions:

Now I have some more questions for you. You just need to answer yes or no. Let's do a few practice questions.

- Was the teacher from your school in the room when you saw the doctor? (Wait for response.) No! If I ask you if something happened, and it didn't happen, you say no!
- Did you see the doctor flying in the sky? (Wait for response.) No, that's a silly question.
- When you went into the doctor's room, did you take your shoes off? Good. That really happened, so you said, "Yes."

**Recognition (touched here?) questions.** The interviewer then asked 8 to 10 recognition (yes-no) questions about touching to specific body parts, including genital and anal touches. For each child, half were target items (actual touches) and half were distractor items (i.e., foils). Questions about genital and anal touching were either targets or distractors, depending upon the child's examination experience. Although the specific distractor and target questions varied across children, on average children from different clinics were asked the same number of questions (9.8 questions for both SAC and GIC children). Target and foil questions were randomized and presented in the same order for the BD and no-BD sections of the interview.

For the BD condition, the interviewer showed the child the same front and back drawings used earlier but with all marks made by the child removed. The interviewer pointed to a specific body part for each question and, without mentioning its name, asked, "Did the doctor touch you here?" If the child assented, the interviewer asked, "What did s/he touch you with?" and "Tell me about it." For the comparable no-BD condition, the interviewer asked the same questions with the name of the body part included in the question (e.g., "Did the doctor touch your cheek?").

**Change-condition explanation.** After asking the recognition questions in the first assigned condition, the interviewer explained the need to repeat questions by saying, "Now I have some more questions to ask you about your visit to the doctor. I know I have asked you a lot of questions already, but I just want to be sure." She then delivered the cued-recall and recognition sets of questions in the remaining interview condition (no-BD or BD). That is, if the child was assigned to the BD first condition ( $n = 54$ ), the order of the subtests was BD cued recall, BD recognition, no-BD cued recall, and no-BD recognition. For children assigned to the no-BD first condition ( $n = 53$ ), the order of the subtests was no-BD cued recall, no-BD recognition, BD cued recall, and BD recognition (see Figure 1).

**Simon Says game.** To verify the child's knowledge of body part terms, the interviewer initiated a game of Simon Says to test the child's understanding of each body part name that was mentioned in the recognition questions.

## Data Coding

Interviews were audio recorded, and touch reports written down during the interview were verified against the transcribed recordings. Two coders compared parts named by each child to the medical checklist and categorized each report as accurate or inaccurate. Perhaps because anatomically detailed BDs clearly depict individual body parts, and we used children's own terms for these parts, the coders agreed 100% of the time when comparing lists of reported touches against children's medical checklists.

In the cued recall and recognition question blocks of the interview, comments in response to "Can you tell me more about that touch?" were classified as elaborations of experienced touches and elaborations of nonexperienced touches. Elaborations were statements, most often segmented from the entire response by the verb, such as "She checked my ears with a flashlight," and "It hurt." As shown in the previous example, children could include more than one elaboration in a single response, and they could also elaborate many items, but each unique elaboration was counted only once within a condition. (, e.g., the child might repeatedly say "It hurt" in response to each probe to tell about the touch, but this elaboration was only counted one time for each condition.) Because our interviewer did not encourage narratives with the multiple prompts typical of forensic interviews, our purpose in scoring elaborations was merely to assess whether the presence of BDs impacted children's willingness to begin talking about touches they had just reported. Due to low numbers of elaborations in some cells, the elaboration data included all descriptions of nonsexual and sexual touches. Four total scores of unique elaborations were calculated: BD Experienced touch, no-BD Experienced touch, BD Nonexperienced touch, and no-BD Nonexperienced touch. Raw scores served as the dependent variables since there was no limit on the number of elaborations a child could make. One coder scored all transcripts, and 21 transcripts scored by a second coder returned identical scores for 88.10% of the 168 data points. Intraclass correlations for the eight variables (Interview Condition  $\times$  Question Type  $\times$  Experienced vs. Nonexperienced Touch) ranged from .94 to .98.

## Results

Although touching during medical examinations is not sexually motivated, for clarity we refer to reports of genital and anal touching as the sexual touch reports, whereas other reports are the nonsexual touch reports. Unless otherwise noted, we explored relationships between interviewing condition (within subjects) and other factors (e.g., Age  $\times$  Condition) with a generalized linear mixed model procedure (Proc Glimmix, SAS version 9.4) and reported Type III tests of fixed effects. For count variables, we used a negative binomial distribution with a log link function. We used binary logistic for dichotomous variables, and binomial logistic for proportion "yes" responses. As mentioned earlier, we entered age (in months) as a continuous variable but categorized the children into two age groups to table data and to parse interactions involving age: younger (3–5 years,  $n = 50$ ) and older (6–8 years,  $n = 57$ ). Given that power was limited by modest sample sizes in some subgroups, we trimmed nonsignificant interaction terms to test lower-order effects.

## Preliminary Analyses

On average, the SAC children were about eight months younger than the GIC children ( $M_s = 69.4$  and  $77.1$  month, respectively),  $t(1,105) = -2.04, p = .044$ , and the average delay between their medical examinations and the memory interview was about a day earlier for the SAC group ( $M_s = 7.7$  and  $8.5$  days, respectively),  $t(1,105) = -2.01, p = .047$ . However, length of the delay between examinations and interviews did not predict disclosures of non-sexual touch,  $p_s > .16$ , or sexual touch,  $p_s > .55$ . The number of body parts touched by the physician was balanced across clinics, sexes, and children of various ages, all  $p_s > .88$ .

Children's responses to the blood-draw and bandage questions revealed high rates of accuracy among the 18 children who had blood drawn (17 responses to these questions were correct during BD questioning and all were correct during no-BD questioning). When the same questions were asked of the children who did not have their blood drawn, most correctly denied this event, both with BDs (88%) and without BDs (85%).

Performance on the Simon Says activity was near ceiling (96.0%) and was unrelated to sex, clinic, or age,  $p_s > .29$ . Thus, children knew the names of the body parts that were touched and discussed in the study.

## Free Recall

Because all children freely recalled their examination experiences without BDs, this section of the interview was primarily interesting to (a) confirm that our sample behaved similarly to other study samples, and (b) determine whether we could collapse data from the SAC and GICs for the primary analyses. Regarding the first issue, spontaneous reports of sexual touching mirrored findings from earlier studies that did not expose children to misinformation. In a Sex  $\times$  Age analysis, only 14 of the 55 SAC children (25.5%) mentioned genital touching they had experienced, and reporting was not significantly related to sex,  $p = .12$ . Reporting did increase with age: 13.3% of the younger children spontaneously mentioned experienced genital touching, compared with 40.0% of the older group,  $F(1, 52) = 6.86, p = .012$ , estimated odds ratio for a 1 year increase ( $OR_{\text{year}} = 1.84$ , 95% CI [1.15, 2.93]). Reports of anal touching also increased with age (13.6% of the younger group vs. 34.8% of the older group),  $F(1, 87) = 4.38, p = .039$ ,  $OR_{\text{year}} = 1.41$ , 95% CI [1.02, 1.96]. There were no spontaneous false reports of genital or anal touching during free recall.

We compared the event memories of SAC and GI children by analyzing reports of nonsexual touches. Only 35.5% of children spontaneously mentioned a nonsexual touch, and the number of reports was not significantly associated with clinic, sex, or age,  $p_s > .08$ . Even fewer children (7.5%) mentioned inaccurate nonsexual touches, and these reports were not significantly associated with clinic, sex, or age, all  $p_s > .10$ .

To summarize, consistent with other studies (e.g., Brown et al., 2007) the children reported few touches during free recall but were highly accurate. Our findings that older children were more likely than younger children to mention genital and anal touch were not consistent with those of Saywitz, Goodman, Nicholas, and Moan (1991), who found low reporting rates regardless of age.

Because there were no baseline differences between children from the SACs and GICs in their free recall of their examinations,

and to maintain adequate sample sizes within cells, we did not enter clinic as a factor in subsequent analyses.

## Cued Recall

### Preliminary analyses of condition order and sex differences.

For the first five dependent variables listed in Table 1, we conducted Order (BD first/no-BD second vs. no-BD first/BD second)  $\times$  Age  $\times$  Condition analyses to evaluate interactions involving the order of the two interview conditions and interview condition. (There were too few false reports of anal touching to analyze this sixth variable.) The only interaction that emerged from these five analyses was an Order  $\times$  Age  $\times$  Condition interaction for the number of incorrect nonsexual touches,  $F(1, 103) = 5.67, p = .019$ . However, follow-up analyses did not detect a significant Order  $\times$  Condition interaction for the younger chil-

Table 1  
Responses to Cued Recall (Where Touched?) in the Body Diagram and No Body Diagram Conditions

Age (years)	N	Interview condition			
		BD		No-BD	
Correct nonsexual touch reports (number)					
3–5	50	3.0	(1.9)	1.5	(1.8)**
6–8	57	2.8	(2.1)	2.4	(1.8)
Overall	107	2.9	(2.0)	2.0	(1.8) <sup>a</sup>
Incorrect nonsexual touch reports (number)					
3–5	50	1.1	(1.4)	.5	(1.0)
6–8	57	.2	(.5)	.1	(.4)
Overall	107	.6	(1.1)	.3	(.7) <sup>b</sup>
Correct genital touch reports (% of SAC children)					
3–5	30	66.7	[48.8, 80.8]	40.0	[24.6, 57.7]
6–8	25	88.0	[70.0, 95.8]	72.0	[52.4, 85.7]
Overall	55	76.4	[63.7, 85.6]	54.5	[41.5, 67.0]*** <sup>b</sup>
Girls	38	81.6	[66.6, 90.8]	50.0	[34.9, 65.2]**
Boys	17	64.7	[41.3, 82.7]	64.7	[41.3, 82.7]
Correct anal touch reports (% of SAC children and examined GIC children)					
3–5	44	54.5	[40.1, 68.3]	27.3	[16.3, 41.9]
6–8	46	67.4	[53.0, 79.1]	50.0	[36.1, 63.9]
Overall	90	61.1	[50.8, 70.5]	38.9	[29.5, 49.2]*** <sup>b</sup>
Incorrect genital touch reports (% of examined and unexamined GIC children)					
3–5	20	35.0	[18.1, 56.7]	15.0	[5.2, 36.0] <sup>c</sup>
6–8	32	9.4	[3.2, 24.2]	9.4	[3.2, 24.2]
Overall	52	19.2	[10.8, 31.9]	11.5	[5.4, 23.0]
Incorrect anal touch reports (% of unexamined GIC children)					
3–5	6	16.7	[3.0, 56.4]	.0	[.0, 39.0] <sup>c</sup>
6–8	11	.0	[.0, 25.9]	.0	[.0, 25.9]
Overall	17	5.9	[1.1, 27.0]	.0	[.0, 18.4]

Note. Standard deviations are in parentheses; 95% confidence intervals are in brackets. BD = body diagram; No-BD = no body diagram; SAC = sexual abuse clinic; GIC = gastrointestinal clinic.

<sup>a</sup> Significant Age  $\times$  Condition interaction. <sup>b</sup> Nonsignificant Age  $\times$  Condition interaction. <sup>c</sup> Five of the examined and unexamined GIC children made more forensically-relevant errors in one of the conditions; in all cases, the children made more errors in the BD condition, binomial test,  $p = .031$ .

\*\* $p < .01$ .



dren,  $p = .94$ , and there was only a nonsignificant trend for the older group,  $p = .08$ . (Older children reported a greater number of incorrect nonsexual touches in whichever interview condition came last, but differences between conditions were not significant for either order,  $ps > .11$ .) Due to the lack of significant Order  $\times$  Condition interactions despite the large number of tests, we collapsed data across condition orders.

We also conducted Sex  $\times$  Age  $\times$  Condition analyses to evaluate interactions involving sex and condition. The only finding was a nearly significant Sex  $\times$  Condition interaction for correct genital reports,  $F(1, 52) = 3.96$ ,  $p = .052$ . Therefore, we discuss sex differences only for this performance measure.

**Nonsexual touch reports.** Table 1 lists descriptive statistics and flags significant differences between the BD and no-BD conditions. The children reported few of the nonsexual touches they had received, averaging only 2.4 across ages and conditions. An Age  $\times$  Condition (BD, no-BD) analysis of correct nonsexual reports indicated that the main effect of condition was moderated by age,  $F(1, 105) = 7.38$ ,  $p = .008$ . BDs significantly increased reports of experienced touching among the younger children, bringing their scores to the level of the older children,  $F(1, 49) = 19.74$ ,  $p < .001$ , incidence rate ratio (IRR) = 1.97, 95% CI [1.45, 2.68] = .15. BDs did not benefit the older children,  $F(1, 56) = 2.46$ ,  $p = .12$ .

Analyses of the incorrect nonsexual touch reports produced significant main effects of age,  $F(1, 105) = 21.89$ ,  $p < .001$ , IRR for a 1 year increase (IRR<sub>year</sub>) = 0.66, 95% CI [0.55, 0.79], and condition,  $F(1, 106) = 9.01$ ,  $p = .003$ , IRR = 1.94, 95% CI [1.25, 3.02]. Although the majority of children made no errors (66% in the BD condition and 79% in the no-BD condition), the frequency of errors decreased with age and occurred more often in the BD condition (see Table 1). The Age  $\times$  Condition interaction was not significant,  $p = .18$ .

**Sexual touch reports.** In a factorial analysis, the proportion of SAC children who correctly reported genital touching increased with age,  $F(1, 53) = 5.25$ ,  $p = .026$ , OR<sub>year</sub> = 1.49, 95% CI [1.05, 2.12], and was greater in the BD condition,  $F(1, 54) = 6.59$ ,  $p = .013$ , OR = 3.25, 95% CI [1.29, 8.15], as shown in Table 1. The Age  $\times$  Condition interaction was not significant,  $p = .64$ . Due to the Sex  $\times$  Condition trend reported earlier, we broke performance down by sex: only the girls disclosed more often in the BD than no-BD condition,  $F(1, 37) = 9.83$ ,  $p = .003$ , OR = 7.46, 95% CI [2.04, 27.33]. An analysis of only those children who had not disclosed genital touching during free recall confirmed that more disclosures occurred in the BD condition for this group of children as well,  $F(1, 40) = 5.55$ ,  $p = .02$ , OR = 3.26, 95% CI [1.18, 8.99]. Mirroring the finding for SAC children as a whole, the Age  $\times$  Condition interaction among children who did not disclose during free recall was not significant,  $p = .89$ .

A higher proportion of the SAC and examined GIC children disclosed anal touch in the BD versus the no-BD condition,  $F(1, 89) = 10.44$ ,  $p = .002$ , OR = 2.99, 95% CI [1.52, 5.86]. There was not a significant age effect,  $F(1, 88) = 2.70$ ,  $p = .10$ , nor was there a significant Age  $\times$  Condition interaction,  $p = .24$ . The higher disclosure rate in the BD condition occurred even among children who had not disclosed during free recall,  $F(1, 67) = 7.75$ ,  $p = .007$ , OR = 2.96, 95% CI [1.36, 6.44]; Age  $\times$  Condition interaction,  $p = .89$ .

A factorial analysis of incorrect genital touch reports (examined and unexamined GIC children) detected only a nonsignificant age trend,  $F(1, 50) = 3.93$ ,  $p = .053$ , and no effect of condition,  $F(1, 51) = 1.59$ ,  $p = .21$ . False reports of genital touching were made by 11.5% of GIC children in the no-BD condition and 19.2% the BD condition. Most children responded the same in the BD and no-BD sections of the interview, with four exceptions: these four children falsely reported genital touch in the BD condition but not in the no-BD condition.

We next compared error rates by examined versus unexamined GIC children to consider the possibility that some examined GIC children made false genital reports because genital and anal regions are physically close. This was not the case: 20.0% of the examined GIC children falsely reported genital touching with BDs, but so did 17.6% of the unexamined GIC children,  $p = .58$ . The percentages of examined and unexamined children falsely reporting genital touching in the no-BD condition were 11.4% and 11.8%, respectively.

Only 1 of the 17 unexamined GIC children falsely reported anal touching, and this report occurred when he was questioned in the BD conditions. Due to small sample sizes, we collapsed false genital touch reports and false anal touch reports into a single analysis by identifying the examined and unexamined GIC children who made more forensically relevant errors in one of the conditions. There were five such children (9.6% of the two groups of GIC children). In all cases, the children made more errors in the BD condition. All of these children were in the younger age group: four 3-year-olds (50% of GIC 3-year-olds) and one 5-year-old (11% of GIC 5-year-olds); there were four boys and one girl. The finding that children who responded differently across conditions were all in the BD condition was significant with a 1-tailed binomial test,  $p = .031$ .

**Elaborations.** As expected, within each block of questions (BD and no-BD) the younger children provided fewer elaborations for correct touch reports than the older children ( $M_{\text{younger}} = 1.08$ ,  $SD = 1.16$ ,  $M_{\text{older}} = 3.16$ ,  $SD = 3.40$ ),  $F(1, 105) = 38.56$ ,  $p < .001$ , IRR<sub>year</sub> = 1.40, 95% CI [1.26, 1.56]. On average, the children provided 2.02 ( $SD = 1.93$ ) elaborations for their correct touch reports in the BD condition and 2.36 ( $SD = 4.52$ ) in the no-BD condition; this difference was not significant,  $F(1, 106) = .20$ ,  $p = .66$ .

The younger children provided more elaborations about incorrect touch reports than the older children ( $M_{\text{younger}} = 0.60$ ,  $SD = 1.11$ ,  $M_{\text{older}} = 0.19$ ,  $SD = 0.38$ ),  $F(1, 105) = 4.49$ ,  $p = .036$ , IRR<sub>year</sub> = 0.79, 95% CI [0.64, 0.99]. On average, the children reported 0.43 ( $SD = 1.04$ ) elaborations for incorrect touch reports in the BD condition and 0.34 ( $SD = 0.93$ ) in the no-BD condition; this difference was not significant,  $F(1, 106) = 0.82$ ,  $p = .37$ .

## Recognition

### Preliminary analyses of condition order and sex differences.

As with cued recall, we entered condition order (BD first vs. no-BD first) into factorial analyses to evaluate interactions involving order and interview condition; none were significant, all  $ps > .28$ . Preliminary analyses also found no significant interactions involving sex and interviewing condition,  $ps > .24$ . Therefore, we did not include condition order and sex as variables when analyzing recognition performance.

**Nonsexual touch reports.** As shown in Table 2, recognition questions served to equalize reports of nonsexual touches across age groups and conditions. A factorial analysis conducted on the proportion of nonsexual target questions correctly answered did not detect an Age  $\times$  Condition interaction,  $p = .61$ , or main effects of age,  $F(1, 105) = 0.00$ ,  $p = .98$ , or condition,  $F(1, 106) = 0.25$ ,  $p = .62$ . Regarding incorrect responses to nonsexual distractor questions, there was no Age  $\times$  Condition interaction,  $p = .92$ , and no main effect of condition,  $F(1, 106) = 1.04$ ,  $p = .31$ . The proportion of errors did decline with age,  $F(1, 105) = 8.61$ ,  $p = .004$ ,  $IRR_{\text{year}} = 0.69$ , 95% CI [0.54, 0.89].

**Sexual touch reports.** Findings for correct assents to yes-no questions about genital and anal touching were comparable: the proportions of children correctly responding "yes" were not significantly impacted by BDs in factorial analyses,  $F_{\text{genital}}(1, 54) = 0.51$ ,  $p = .48$ ,  $F_{\text{anal}}(1, 89) = 0.13$ ,  $p = .72$ . Correct responses did increase with age,  $F_{\text{genital}}(1, 53) = 7.74$ ,  $p = .008$ ,  $OR_{\text{year}} = 1.75$ , 95% CI [1.17, 2.60],  $F_{\text{anal}}(1, 88) = 8.31$ ,  $p = .005$ ,  $OR_{\text{year}} = 1.56$ , 95% CI [1.15, 2.11], as shown in Table 2.

Regarding errors, the proportion of GIC children who incorrectly reported genital touching did not vary significantly across interview conditions,  $F(1, 51) = 0.88$ ,  $p = .35$ , or as a function of age,  $F(1, 50) = 2.75$ ,  $p = .10$ . Three of the younger children (15%)

answered differently across the two conditions, and in all cases they erred only in the BD condition. Only one of the 17 unexamined GIC children, also in the BD condition, falsely reported an anal touch.

**Elaborations.** As with cued recall, within each block of questions (BD and no-BD) the younger children provided fewer elaborations than the older children for their correct touch reports ( $M_{\text{younger}} = 1.05$ ,  $SD = 1.16$ ,  $M_{\text{older}} = 2.74$ ,  $SD = 1.77$ ),  $F(1, 105) = 49.43$ ,  $p < .001$ ,  $IRR_{\text{year}} = 1.40$ , 95% CI [1.27, 1.54]. On average, the children provided 1.99 ( $SD = 1.76$ ) unique elaborations for their correct touch reports in the BD condition and 1.91 ( $SD = 1.95$ ) in the no-BD condition; this difference was not significant,  $F(1, 106) = 0.19$ ,  $p = .66$ .

The younger children provided more elaborations about their incorrect touch reports than the older children ( $M_{\text{younger}} = 0.96$ ,  $SD = 1.55$ ,  $M_{\text{older}} = 0.36$ ,  $SD = .61$ ),  $F(1, 105) = 7.01$ ,  $p = .009$ ,  $IRR_{\text{year}} = 0.77$ , 95% CI [0.63, 0.94]. On average, the children provided 0.65 ( $SD = 1.24$ ) elaborations of incorrect touch reports in the BD condition and 0.62 ( $SD = .138$ ) in the no-BD condition; this difference was not significant,  $F(1, 106) = 0.13$ ,  $p = .71$ .

### Showing With BDs (BD Cued Recall) Versus Asking (No-BD Recognition)

In this section we test one important justification for using BDs in forensic interviews; namely, that cued recall with BDs is preferable to no-BD yes-no questions because BDs increase reports of experienced touching without being overly suggestive. The results shown in Tables 1 and 2 provide no evidence to support this hypothesis. Among the older children, 88% correctly disclosed genital touching during no-BD recognition questioning, which was identical to disclosure rate during BD cued recall. Moreover, 71.7% of the older children correctly disclosed anal touching during no-BD recognition questioning, versus 67.4% during BD cued recall. The percentages of older children who falsely disclosed sexual touching (both genital and anal) were identical for BD cued recall and no-BD recognition questions. More of the younger children correctly disclosed genital touch in BD cued recall (66.7%) than in no-BD recognition (53.3%), and more of the younger children incorrectly disclosed genital touch in BD cued recall (35.0%) than in no-BD recognition (20.0%). These differences, however, did not reach significance,  $ps > .27$ . (Because only six younger children did not experience an anal examination, we did not compare their false disclosures of anal touch across conditions.)

We verified the similarity of findings for BD cued recall and no-BD recognition by inspecting children's performance during the first block of questions only (which renders condition as a between-subjects factor). This was necessary because the nonsignificant order effects for cued recall and recognition could nonetheless have driven performance in opposite directions for these interview sections. This was not the case. Collapsing across age groups, the first block of no-BD yes-no (recognition) questions elicited nearly as many correct disclosures as did BD cued recall—with no greater risk of incorrect responses. (Means for correct genital reports were 74.1% and 75.0% for recognition no-BDs and cued recall BDs, respectively; means for correct anal reports were 63.0% and 68.2%. Means for incorrect genital reports were 15.4% and 23.1%, respectively; means for incorrect anal reports were

Table 2  
Responses to Recognition Questions (Touched Here?) in the Body Diagram and No Body Diagram Conditions

Age (years)	n	Interview condition			
		BD		No-BD	
Correct responses to nonsexual target questions (proportion)					
3–5	50	.48	(.37)	.42	(.33)
6–8	57	.44	(.34)	.44	(.33)
Overall	107	.46	(.35)	.43	(.33)
Incorrect responses to nonsexual distractor questions (proportion)					
3–5	50	.25	(.32)	.18	(.28)
6–8	57	.10	(.21)	.07	(.16)
Overall	107	.17	(.28)	.12	(.23)
Correct genital touch reports (% of SAC children)					
3–5	30	63.3	[45.5, 78.1]	53.3	[36.1, 69.8]
6–8	25	88.0	[70.0, 95.8]	88.0	[70.0, 95.8]
Overall	55	74.5	[61.7, 84.2]	69.1	[56.0, 79.7]
Correct anal touch reports (% of SAC and examined GIC children)					
3–5	44	43.2	[29.7, 57.8]	50.0	[35.8, 64.2]
6–8	46	73.9	[59.7, 84.4]	71.7	[57.5, 82.7]
Overall	90	58.9	[48.6, 68.5]	61.1	[50.8, 70.5]
Incorrect genital touch reports (% of GIC children)					
3–5	20	35.0	[18.1, 56.7]	20.0	[8.1, 41.6]
6–8	32	9.4	[3.2, 24.2]	9.4	[3.2, 24.2]
Overall	52	19.2	[10.8, 31.9]	13.5	[6.7, 25.3]
Incorrect anal touch reports (% of unexamined GIC children)					
3–5	6	16.7	[3.0, 56.4]	.0	[.0, 39.0]
6–8	11	.0	[.0, 25.9]	.0	[.0, 25.9]
Overall	17	5.9	[1.1, 27.0]	.0	[.0, 18.4]

Note. Standard deviations are in parentheses; 95% confidence intervals are in brackets. BD = body diagram; No-BD = no body diagram; SAC = sexual abuse clinic; GIC = gastrointestinal clinic. There were no significant condition effects.

0.0% and 10.0%.) Moreover, even younger children did not benefit from cued BDs compared to no-BD yes-no questions: 68.8% of younger children disclosed genital touch in response to yes-no questions without BDs, versus 57.1% to cued recall with BDs; for anal touch reports, these percentages were 60.9% and 52.4%, respectively.

## Discussion

To date, evidence comparing diagram-assisted with unassisted interviewing has been limited to studies of innocuous touches and to a single medical study that did not isolate the impact of BDs on reports of genital touching (Steward et al., 1996). The present study is therefore the first to examine disclosures of genital and anal touch when interviewers included or omitted BDs from cued recall (where touched?) and recognition (touched here?) questions. There were three broad conclusions. First, adding BDs to questions increased the number of correct reports even when target reports involved genital and anal touch. Second, this benefit occurred along with an elevated risk of false sexual touch reports among children less than 6 years. Finally, the older children responded comparably to no-BD recognition and BD cued-recall questions, whereas the younger group showed nonsignificantly more correct and incorrect reports during BD cued recall. Overall, these patterns show that rather than circumventing the problems associated with direct questions, BDs elicit a concerning number of false reports among young children and that asking children to point to BDs is functionally similar to asking yes-no questions about touching to specific body parts.

The surprisingly high rates of false sexual touch reports among the young children in our sample counters the assumption that false reports of innocuous touch will not generalize to sexual touches ("Reflections on Emerging Issues," 2012). For example, the 3- to 5-year-olds from the GICs who incorrectly reported genital touching in the BD condition included 50% of the 3-year-olds, 33% of the 4-year-olds, and 22% of the 5-year-olds. We propose three major explanations for why our rates were higher than those reported by Steward et al. (1996). First, we did not conduct an interview immediately after the medical examinations (which might have solidified children's memories in the earlier study). Second, young children have more difficulty reporting touches with BDs compared to three-dimensional props (see Lytle et al., 2015), and this can only be observed if responses to three-dimensional props are separated from responses to two-dimensional props. Third, unlike Steward and colleagues we did not collapse responses from children 5 years and younger with responses from older children.

It is important to emphasize that our study was designed to compare alternative interviewing methods and not to identify absolute rates of true and false cases out in the field. Many factors might change these rates. For example, the risks associated with BDs might be reduced by early ground rules instruction or by follow-up questions that help investigators disregard erroneous points that are not convincingly described. Conversely, risks could be greater among children exposed to an atmosphere of concern or direct suggestions about inappropriate touching. This would occur if BDs were more likely than verbal questions alone to cue memories of nonexperienced touches that were merely mentioned in conversations. We did not incorporate these dynamics into the

current study, but they should be a focus of future research. Also, false report rates could be higher than those in the current study when interviewers prepare children for questioning by asking them to label parts of a diagram (which might prime incorrect responses; see Poole & Dickinson, 2011) or among children with cognitive impairments. Finally, our free recall phase likely was not extensive enough to exhaust children's recall, which could have magnified the increase in disclosures produced by BDs and recognition questions. The absence of information about these and other factors illustrate why—with our present body of knowledge—BDs are not yet an evidence-based practice.

The results of the present study support current evidence-based standards for child interviewing which are best represented by the National Institute of Child Health and Human Development (NICHD) protocol developed by Lamb and his colleagues (2008; consult [www.nichdprotocol.com](http://www.nichdprotocol.com)). Initially based upon common sense applications of laboratory-based research, Lamb and his colleagues quickly developed a research component to test the protocol, assess the efficacy of alternative approaches, and evaluate the short-term and long-term effects of training workers to use the protocol. The absence of props (including dolls and BDs) in the NICHD protocol reflects this team's review of the existing research (including their own) that highlighted the disadvantages of using props, especially with young children. Given its status as an evidence-based protocol, it is surprising that only 7% of all child advocacy centers in the United States had been trained in this model in 2009, whereas the CornerHouse Forensic Interview Protocol, which had long endorsed using BDs early in interviews, was the most widely distributed approach (National Children's Advocacy Center, 2011).

Recent modifications to the diagram-assisted protocols used by training programs (see Cornerhouse, ChildFirst, First Witness) have added narrative practice and open-ended topic introduction to their procedures, thereby elbowing out media, such as dolls and BDs, from the first part of the interview (see Faller, 2015). Nevertheless, some trainers continue to direct interviewers to use BDs as described in the earlier RATA protocol (Anderson et al., 2010) when disclosures are not forthcoming (Del Russo, 2014). One reason for continued confidence in this practice is the belief that BDs are safe for children who understand the representational nature of props (American Prosecutor's Research Institute, 2004). However, recent data on children's thoughtless points to BDs (Lytle et al., 2015), along with evidence that children with poor cognitive control often describe events consistent with incorrect points (Poole et al., 2014), illustrate why representational understanding might not be a sufficient condition for accurate reporting with BDs.

Together with findings from earlier studies, our findings suggest two interim conclusions for policymakers. First, at this time there is not the requisite amount of research to show that BDs safely increase accurate disclosures; therefore, the use of BDs to elicit abuse disclosures is not yet an evidence-based practice. This was the conclusion of the National Children's Advocacy Center's (2015) position paper, which stated that BDs "should not be used as a matter of standard practice" and should be used when interviewing a child with communication challenges "only if the child has made a verbal disclosure of maltreatment and other clarification options and approaches have been exhausted." (p. 2) Second, there is a pressing need for research that examines promising



approaches for encouraging accurate disclosures of abuse. For example, studies could identify instructions that improve children's performance with BDs or test novel ways of encouraging disclosures. Regardless of the approach, future research should focus on recruiting larger samples of younger children than we were able to accomplish with the current study, which will provide more stable estimates of error rates and also permit analyses to identify the characteristics of children (e.g., age, cognitive strengths and weaknesses, language skills) most at risk for false responses.

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