

SENATE BILL No. 334

May 14, 2015, Introduced by Senators EMMONS, JONES, KNOLLENBERG, NOFS and BIEDA and referred to the Committee on Families, Seniors and Human Services.

A bill to amend 1975 PA 238, entitled "Child protection law," by amending sections 2, 3, and 12b (MCL 722.622, 722.623, and 722.632b), section 2 as amended by 2014 PA 30, section 3 as amended by 2014 PA 344, and section 12b as added by 2012 PA 593.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Adult foster care location authorized to care for a
3 child" means an adult foster care family home or adult foster care
4 small group home as defined in section 3 of the adult foster care
5 facility licensing act, 1979 PA 218, MCL 400.703, in which a child
6 is placed in accordance with section 5 of 1973 PA 116, MCL 722.115.

7 (b) "Attorney" means, if appointed to represent a child under
8 the provisions referenced in section 10, an attorney serving as the

1 child's legal advocate in the manner defined and described in
2 section 13a of chapter XIIIA of the probate code of 1939, 1939 PA
3 288, MCL 712A.13a.

4 (c) "Central registry" means the system maintained at the
5 department that is used to keep a record of all reports filed with
6 the department under this act in which relevant and accurate
7 evidence of child abuse or child neglect is found to exist.

8 (d) "Central registry case" means a child protective services
9 case that the department classifies under sections 8 and 8d as
10 category I or category II. For a child protective services case
11 that was investigated before July 1, 1999, central registry case
12 means an allegation of child abuse or child neglect that the
13 department substantiated.

14 (E) **"CENTRALIZED INTAKE" MEANS THE DEPARTMENT'S STATEWIDE**
15 **CENTRALIZED PROCESSING CENTER FOR REPORTS OF SUSPECTED CHILD ABUSE**
16 **AND CHILD NEGLECT.**

17 (F) ~~(e)~~—"Child" means a person under 18 years of age.

18 (G) ~~(f)~~—"Child abuse" means harm or threatened harm to a
19 child's health or welfare that occurs through nonaccidental
20 physical or mental injury, sexual abuse, sexual exploitation, or
21 maltreatment, by a parent, a legal guardian, or any other person
22 responsible for the child's health or welfare or by a teacher, a
23 teacher's aide, or a member of the clergy.

24 (H) ~~(g)~~—"Child care organization" means that term as defined
25 in section 1 of 1973 PA 116, MCL 722.111.

26 (I) ~~(h)~~—"Child care provider" means an owner, operator,
27 employee, or volunteer of a child care organization or of an adult

1 foster care location authorized to care for a child.

2 (J) ~~(i)~~—"Child care regulatory agency" means the department **OF**
3 **LICENSING AND REGULATORY AFFAIRS** or a successor state department
4 that is responsible for the licensing or registration of child care
5 organizations or the licensing of adult foster care locations
6 authorized to care for a child.

7 (K) ~~(j)~~—"Child neglect" means harm or threatened harm to a
8 child's health or welfare by a parent, legal guardian, or any other
9 person responsible for the child's health or welfare that occurs
10 through either of the following:

11 (i) Negligent treatment, including the failure to provide
12 adequate food, clothing, shelter, or medical care.

13 (ii) Placing a child at an unreasonable risk to the child's
14 health or welfare by failure of the parent, legal guardian, or
15 other person responsible for the child's health or welfare to
16 intervene to eliminate that risk when that person is able to do so
17 and has, or should have, knowledge of the risk.

18 (L) ~~(k)~~—"Citizen review panel" means a panel established as
19 required by section 106 of title I of the child abuse prevention
20 and treatment act, 42 USC 5106a.

21 (M) ~~(l)~~—"Member of the clergy" means a priest, minister,
22 rabbi, Christian science practitioner, or other religious
23 practitioner, or similar functionary of a church, temple, or
24 recognized religious body, denomination, or organization.

25 (N) ~~(m)~~—"Controlled substance" means that term as defined in
26 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

27 (O) ~~(n)~~—"CPSI system" means the child protective service

1 information system, which is an internal data system maintained
2 within and by the department, and which is separate from the
3 central registry and not subject to section 7.

4 (P) ~~(e)~~—"Department" means the department of **HEALTH AND** human
5 services.

6 (Q) ~~(p)~~—"Director" means the director of the department.

7 (R) ~~(q)~~—"Expunge" means to physically remove or eliminate and
8 destroy a record or report.

9 (S) ~~(r)~~—"Lawyer-guardian ad litem" means an attorney appointed
10 under section 10 who has the powers and duties referenced by
11 section 10.

12 (T) ~~(s)~~—"Local office file" means the system used to keep a
13 record of a written report, document, or photograph filed with and
14 maintained by a county or a regionally based office of the
15 department.

16 (U) ~~(t)~~—"Nonparent adult" means a person who is 18 years of
17 age or older and who, regardless of the person's domicile, meets
18 all of the following criteria in relation to a child:

19 (i) Has substantial and regular contact with the child.

20 (ii) Has a close personal relationship with the child's parent
21 or with a person responsible for the child's health or welfare.

22 (iii) Is not the child's parent or a person otherwise related
23 to the child by blood or affinity to the third degree.

24 (V) **"ONLINE REPORTING SYSTEM" MEANS THE ELECTRONIC SYSTEM**
25 **ESTABLISHED BY THE DEPARTMENT FOR INDIVIDUALS IDENTIFIED IN SECTION**
26 **3(1) TO REPORT SUSPECTED CHILD ABUSE OR CHILD NEGLECT.**

27 (W) ~~(u)~~—"Person responsible for the child's health or welfare"

1 means a parent, legal guardian, person 18 years of age or older who
2 resides for any length of time in the same home in which the child
3 resides, or, except when used in section 7(2)(e) or 8(8), nonparent
4 adult; or an owner, operator, volunteer, or employee of 1 or more
5 of the following:

6 (i) A licensed or registered child care organization.

7 (ii) A licensed or unlicensed adult foster care family home or
8 adult foster care small group home as defined in section 3 of the
9 adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

10 (iii) A court-operated facility as approved under section 14
11 of the social welfare act, 1939 PA 280, MCL 400.14.

12 (X) ~~(v)~~—"Relevant evidence" means evidence having a tendency
13 to make the existence of a fact that is at issue more probable than
14 it would be without the evidence.

15 (Y) ~~(w)~~—"Sexual abuse" means engaging in sexual contact or
16 sexual penetration as those terms are defined in section 520a of
17 the Michigan penal code, 1931 PA 328, MCL 750.520a, with a child.

18 (Z) ~~(x)~~—"Sexual exploitation" includes allowing, permitting,
19 or encouraging a child to engage in prostitution, or allowing,
20 permitting, encouraging, or engaging in the photographing, filming,
21 or depicting of a child engaged in a listed sexual act as defined
22 in section 145c of the Michigan penal code, 1931 PA 328, MCL
23 750.145c.

24 (AA) ~~(y)~~—"Specified information" means information in a
25 children's protective services case record related specifically to
26 the department's actions in responding to a complaint of child
27 abuse or child neglect. Specified information does not include any

1 of the following:

2 (i) Except as provided in this subparagraph regarding a
3 perpetrator of child abuse or child neglect, personal
4 identification information for any individual identified in a child
5 protective services record. The exclusion of personal
6 identification information as specified information prescribed by
7 this subparagraph does not include personal identification
8 information identifying an individual alleged to have perpetrated
9 child abuse or child neglect, which allegation has been classified
10 as a central registry case.

11 (ii) Information in a law enforcement report as provided in
12 section 7(8).

13 (iii) Any other information that is specifically designated as
14 confidential under other law.

15 (iv) Any information not related to the department's actions
16 in responding to a report of child abuse or child neglect.

17 **(BB)** ~~(z)~~ "Structured decision-making tool" means the
18 department document labeled "DSS-4752 (P3) (3-95)" or a revision of
19 that document that better measures the risk of future harm to a
20 child.

21 **(CC)** ~~(aa)~~ "Substantiated" means a child protective services
22 case classified as a central registry case.

23 **(DD)** ~~(bb)~~ "Unsubstantiated" means a child protective services
24 case the department classifies under sections 8 and 8d as category
25 III, category IV, or category V.

26 Sec. 3. (1) An individual is required to report under this act
27 as follows:

1 (a) A physician, dentist, physician's assistant, registered
2 dental hygienist, medical examiner, nurse, person licensed to
3 provide emergency medical care, audiologist, psychologist, marriage
4 and family therapist, licensed professional counselor, social
5 worker, licensed master's social worker, licensed bachelor's social
6 worker, registered social service technician, social service
7 technician, a person employed in a professional capacity in any
8 office of the friend of the court, school administrator, school
9 counselor or teacher, law enforcement officer, member of the
10 clergy, or regulated child care provider who has reasonable cause
11 to suspect child abuse or child neglect shall make ~~immediately, by~~
12 ~~telephone or otherwise, an oral report, or cause an oral report to~~
13 ~~be made,~~ **AN IMMEDIATE REPORT TO CENTRALIZED INTAKE BY TELEPHONE,**
14 **OR, IF AVAILABLE, THROUGH THE ONLINE REPORTING SYSTEM,** of the
15 suspected child abuse or child neglect. ~~to the department.~~ Within
16 72 hours after making ~~the~~ **AN oral report BY TELEPHONE TO**
17 **CENTRALIZED INTAKE,** the reporting person shall file a written
18 report as required in this act. **IF THE IMMEDIATE REPORT HAS BEEN**
19 **MADE USING THE ONLINE REPORTING SYSTEM AND THAT REPORT INCLUDES THE**
20 **INFORMATION REQUIRED IN A WRITTEN REPORT UNDER SUBSECTION (2), THAT**
21 **REPORT IS CONSIDERED A WRITTEN REPORT FOR THE PURPOSES OF THIS**
22 **SECTION AND NO ADDITIONAL WRITTEN REPORT IS REQUIRED.** If the
23 reporting person is a member of the staff of a hospital, agency, or
24 school, the reporting person shall notify the person in charge of
25 the hospital, agency, or school of his or her finding and that the
26 report has been made, and shall make a copy of the written **OR**
27 **ELECTRONIC** report available to the person in charge. A notification

1 to the person in charge of a hospital, agency, or school does not
2 relieve the member of the staff of the hospital, agency, or school
3 of the obligation of reporting to the department as required by
4 this section. One report from a hospital, agency, or school is
5 adequate to meet the reporting requirement. A member of the staff
6 of a hospital, agency, or school shall not be dismissed or
7 otherwise penalized for making a report required by this act or for
8 cooperating in an investigation.

9 (b) A department employee who is 1 of the following and has
10 reasonable cause to suspect child abuse or child neglect shall make
11 a report of suspected child abuse or child neglect to the
12 department in the same manner as required under subdivision (a):

- 13 (i) Eligibility specialist.
- 14 (ii) Family independence manager.
- 15 (iii) Family independence specialist.
- 16 (iv) Social services specialist.
- 17 (v) Social work specialist.
- 18 (vi) Social work specialist manager.
- 19 (vii) Welfare services specialist.

20 (c) Any employee of an organization or entity that, as a
21 result of federal funding statutes, regulations, or contracts,
22 would be prohibited from reporting in the absence of a state
23 mandate or court order. A person required to report under this
24 subdivision shall report in the same manner as required under
25 subdivision (a).

26 (2) The written report **OR A REPORT MADE USING THE ONLINE**
27 **REPORTING SYSTEM** shall contain the name of the child and a

1 description of the child abuse or child neglect. If possible, the
2 report shall contain the names and addresses of the child's
3 parents, the child's guardian, the persons with whom the child
4 resides, and the child's age. The report shall contain other
5 information available to the reporting person that might establish
6 the cause of the child abuse or child neglect, and the manner in
7 which the child abuse or child neglect occurred.

8 (3) The department shall inform the reporting person of the
9 required contents of the written report at the time the oral report
10 is made by the reporting person.

11 (4) The written report required in this section shall be
12 mailed or otherwise transmitted to ~~the county department of the~~
13 ~~county in which the child suspected of being abused or neglected is~~
14 ~~found.~~ **CENTRALIZED INTAKE.**

15 (5) Upon receipt of a written report of suspected child abuse
16 or child neglect, the department may provide copies to the
17 prosecuting attorney and the probate court of the counties in which
18 the child suspected of being abused or neglected resides and is
19 found.

20 (6) If an allegation, written report, or subsequent
21 investigation of suspected child abuse or child neglect indicates a
22 violation of sections 136b, 145c, 462a to 462h, or 520b to 520g of
23 the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c,
24 750.462a to 750.462h, and 750.520b to 750.520g, or section 7401c of
25 the public health code, 1978 PA 368, MCL 333.7401c, involving
26 methamphetamine has occurred, or if the allegation, written report,
27 or subsequent investigation indicates that the suspected child

1 abuse or child neglect was committed by an individual who is not a
2 person responsible for the child's health or welfare, including,
3 but not limited to, a member of the clergy, a teacher, or a
4 teacher's aide, the department shall transmit a copy of the
5 allegation or written report and the results of any investigation
6 to a law enforcement agency in the county in which the incident
7 occurred. If an allegation, written report, or subsequent
8 investigation indicates that the individual who committed the
9 suspected child abuse or child neglect is a child care provider and
10 the department believes that the report has basis in fact, the
11 department shall, within 24 hours of completion, transmit a copy of
12 the written report or the results of the investigation to the child
13 care regulatory agency with authority over the child care
14 provider's child care organization or adult foster care location
15 authorized to care for a child.

16 (7) If a local law enforcement agency receives an allegation
17 or written report of suspected child abuse or child neglect or
18 discovers evidence of or receives a report of an individual
19 allowing a child to be exposed to or to have contact with
20 methamphetamine production, and the allegation, written report, or
21 subsequent investigation indicates that the child abuse or child
22 neglect or allowing a child to be exposed to or to have contact
23 with methamphetamine production, was committed by a person
24 responsible for the child's health or welfare, the local law
25 enforcement agency shall refer the allegation or provide a copy of
26 the written report and the results of any investigation to the
27 county department of the county in which the abused or neglected

1 child is found, as required by subsection (1)(a). If an allegation,
2 written report, or subsequent investigation indicates that the
3 individual who committed the suspected child abuse or child neglect
4 or allowed a child to be exposed to or to have contact with
5 methamphetamine production, is a child care provider and the local
6 law enforcement agency believes that the report has basis in fact,
7 the local law enforcement agency shall transmit a copy of the
8 written report or the results of the investigation to the child
9 care regulatory agency with authority over the child care
10 provider's child care organization or adult foster care location
11 authorized to care for a child. Nothing in this subsection or
12 subsection (1) relieves the department of its responsibilities to
13 investigate reports of suspected child abuse or child neglect under
14 this act.

15 (8) For purposes of this act, the pregnancy of a child less
16 than 12 years of age or the presence of a venereal disease in a
17 child who is over 1 month of age but less than 12 years of age is
18 reasonable cause to suspect child abuse or child neglect has
19 occurred.

20 (9) In conducting an investigation of child abuse or child
21 neglect, if the department suspects that a child has been exposed
22 to or has had contact with methamphetamine production, the
23 department shall immediately contact the law enforcement agency in
24 the county in which the incident occurred.

25 **(10) THE ONLINE REPORTING SYSTEM DESCRIBED IN THIS SECTION**
26 **SHALL BE IMPLEMENTED NOT LATER THAN JANUARY 1, 2017.**

27 Sec. 12b. (1) The task force on the prevention of sexual abuse

1 of children is created within the department.

2 (2) The governor shall appoint members to the task force in
3 consultation with the department. The appointment of members must
4 reflect the geographic diversity of this state. Members of the task
5 force must include the following:

6 (a) Individuals who have experience and expertise in the
7 fields of intervention and prevention of child abuse and **CHILD**
8 neglect, education, or child welfare.

9 (b) A representative from the Michigan coalition to end
10 domestic and sexual violence.

11 (c) A representative from the Michigan domestic and sexual
12 violence prevention and treatment board.

13 (d) A representative from the Michigan chapter of the national
14 children's alliance.

15 (e) An administrator or staff member of a child assessment
16 center.

17 (f) A licensed therapist trained to counsel or treat child
18 sexual abuse victims.

19 (g) A circuit court judge or his or her designee.

20 (h) A school district board member, intermediate school
21 district board member, or public school academy board member.

22 (3) The department director or his or her designee shall serve
23 as the task force's presiding officer. The task force shall meet at
24 the call of the presiding officer. The task force shall make
25 recommendations for reducing child sexual abuse in this state. The
26 task force shall also make recommendations for school policies that
27 address the sexual abuse of children. In making those

1 recommendations, the task force shall do all of the following:

2 (a) Gather information concerning child sexual abuse
3 throughout this state.

4 (b) Receive reports and testimony from individuals, state and
5 local agencies, community-based organizations, and other public and
6 private organizations.

7 (c) Review steps taken and programs established in other
8 states to reduce child sexual abuse.

9 (d) Create goals for state policy that are aimed at preventing
10 child sexual abuse.

11 (e) Create recommendations and guidelines for school policies
12 addressing sexual abuse of children according to section 1505 of
13 the revised school code, 1976 PA 451, MCL 380.1505. These
14 recommendations and guidelines shall be flexible enough to allow
15 accommodation for local autonomy and values.

16 (f) Create recommendations and guidelines for age-appropriate,
17 evidence-based child sexual abuse awareness.

18 (g) Create recommendations and guidelines for school personnel
19 to respond appropriately to pupils affected by sexual abuse.

20 (h) Create recommendations and guidelines for providing
21 educational material to parents and guardians on the warning signs
22 of child sexual abuse and information on assistance and referrals
23 or resources.

24 (i) Develop a child sexual abuse protocol to be utilized by
25 all community partners in order to help to identify, prevent, and
26 investigate child sexual abuse.

27 (j) Submit a final report with the task force's

1 recommendations to the governor and the legislature not later than
2 365 days after the members of the task force are appointed.

3 (4) The recommendations described under subsection (3) may
4 include proposals for specific statutory changes and methods to
5 foster cooperation among state agencies and between the state and
6 local government.

7 (5) The task force shall consult with the employees of the
8 department who work on child protection matters, the department of
9 state police, the state board of education, and any other state
10 agency or department necessary to accomplish the task force's
11 responsibilities under this section.

12 ~~—— (6) The members of the task force shall serve without~~
13 ~~compensation and shall not be reimbursed for their expenses.~~

14 (6) ~~(7)~~—The task force shall be abolished upon submission of
15 the final report required in subsection (3) to the governor and the
16 legislature.

17 (7) ~~(8)~~—Upon written request from a child or the child's
18 parent or legal guardian, that child shall be excused, without
19 penalty, from participating in the task force's information-
20 gathering efforts.

21 (8) ~~(9)~~—As used in this section, "task force" means the task
22 force on the prevention of sexual abuse of children created in
23 subsection (1).

24 Enacting section 1. This amendatory act takes effect 90 days
25 after the date it is enacted into law.