

# SENATE BILL No. 1153

May 31, 2012, Introduced by Senators BIEDA, JONES and ROCCA and referred to the Committee on Families, Seniors and Human Services.

A bill to require the establishment of a vulnerable adult registry; to prescribe the duties and responsibilities of certain state departments and agencies; and to prescribe fees, penalties, and sanctions.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "vulnerable adult registry act".

3       Sec. 3. As used in this act:

4       (a) "Convicted" means 1 of the following:

5       (i) Having a judgment of conviction or a probation order  
6 entered in any court having jurisdiction over criminal offenses,  
7 including, but not limited to, a tribal court or a military court,  
8 and including a conviction subsequently set aside under 1965 PA  
9 213, MCL 780.621 to 780.624.

1           (ii) Either of the following:

2           (A) Being assigned to youthful trainee status under sections  
3 11 to 15 of chapter II of the code of criminal procedure, 1927 PA  
4 175, MCL 762.11 to 762.15, before October 1, 2004.

5           (B) Being assigned to youthful trainee status under sections  
6 11 to 15 of chapter II of the code of criminal procedure, 1927 PA  
7 175, MCL 762.11 to 762.15, on or after October 1, 2004 if the  
8 individual's status of youthful trainee is revoked and an  
9 adjudication of guilt is entered.

10          (iii) Having an order of disposition entered under section 18 of  
11 chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18,  
12 that is open to the general public under section 28 of chapter XIIA  
13 of the probate code of 1939, 1939 PA 288, MCL 712A.28.

14          (iv) Having an order of disposition or other adjudication in a  
15 juvenile matter in another state or country.

16          (b) "Department" means the department of human services.

17          (c) "Vulnerable adult" means that phrase as defined in section  
18 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m.

19          (d) "Vulnerable adult abuse" means an offense under sections  
20 145n to 145p of the Michigan penal code, 1931 PA 328, MCL 750.145n  
21 to 750.145p.

22          (e) "Vulnerable adult abuse registry" or "registry" means the  
23 registry created under section 5.

24          Sec. 5. (1) The department shall establish and maintain a  
25 statewide electronic vulnerable adult abuse registry.

26          (2) If an individual is convicted of vulnerable adult abuse,  
27 the department shall list that individual on the vulnerable adult

1 abuse registry.

2 (3) The department shall work with the department of  
3 technology, management, and budget and any other entity the  
4 department determines necessary to establish the vulnerable adult  
5 registry.

6 (4) The department shall work with the department of state  
7 police and other law enforcement agencies to establish a reporting  
8 procedure that allows the department to obtain the names and other  
9 necessary information of individuals required to be listed on the  
10 vulnerable adult abuse registry.

11 Sec. 7. (1) Unless made public under a law of this state or a  
12 law of another state, a written report, document, or photograph  
13 filed with the department as provided in this act is a confidential  
14 record available only to 1 or more of the following:

15 (a) A legally mandated public or private agency investigating  
16 a report of known or suspected vulnerable adult abuse or a legally  
17 mandated public or private agency prosecuting a disciplinary action  
18 against its own employee involving vulnerable adult services  
19 records.

20 (b) A police or other law enforcement agency investigating a  
21 report of known or suspected vulnerable adult abuse.

22 (c) A physician who is treating a vulnerable adult whom the  
23 physician reasonably suspects may be abused.

24 (d) A person, agency, or organization, including a  
25 multidisciplinary case consultation team, authorized to diagnose,  
26 care for, treat, or supervise a vulnerable adult who is the subject  
27 of a report or record under this act, or a person, agency, or

1 organization, including a multidisciplinary case consultation team,  
2 that is responsible for the vulnerable adult's health or welfare.

3 (e) A person named in the report or record as a perpetrator or  
4 alleged perpetrator of the vulnerable adult abuse.

5 (f) A court that determines the information is necessary to  
6 decide an issue before the court.

7 (g) A grand jury that determines the information is necessary  
8 to conduct the grand jury's official business.

9 (h) A person, agency, or organization engaged in a bona fide  
10 research or evaluation project. The person, agency, or organization  
11 shall not release information identifying a person named in the  
12 report or record unless that person's written consent is obtained.  
13 The person, agency, or organization shall not conduct a personal  
14 interview with a family without the family's prior consent and  
15 shall not disclose information that would identify the vulnerable  
16 adult or his or her family or other identifying information. The  
17 department director may authorize the release of information to a  
18 person, agency, or organization described in this subdivision if  
19 the release contributes to the purposes of this act and the person,  
20 agency, or organization has appropriate controls to maintain the  
21 confidentiality of personally identifying information for a person  
22 named in a report or record made under this act.

23 (i) Subject to section 11, a standing or select committee or  
24 appropriations subcommittee of either house of the legislature  
25 having jurisdiction over vulnerable adult matters.

26 (j) A county medical examiner or deputy county medical  
27 examiner appointed under 1953 PA 181, MCL 52.201 to 52.216, for the

1 purpose of carrying out his or her duties under that act.

2 (2) A person or entity to whom information described in  
3 subsection (1) is disclosed shall make the information available  
4 only to a person or entity described in subsection (1). This  
5 subsection does not require a court proceeding to be closed that  
6 otherwise would be open to the public.

7 Sec. 9. (1) Not less than 30 days after the department lists  
8 an individual on the vulnerable adult abuse registry, the  
9 department shall notify in writing the individual listed on the  
10 registry. The notice shall set forth the individual's right to  
11 request expunction of the record and the right to a hearing if the  
12 department refuses the request.

13 (2) A person who is the subject of a report or record made  
14 under this act may request the department to amend an inaccurate  
15 report or record from the registry and local office file. A person  
16 who is the subject of a report or record made under this act may  
17 request the department to expunge from the registry a report or  
18 record in which no relevant and accurate evidence of vulnerable  
19 adult abuse is found to exist. A report or record filed in a local  
20 office file is not subject to expunction except as the department  
21 authorizes, if considered in the vulnerable adult's best interest.

22 (3) If the department refuses a request for amendment or  
23 expunction under subsection (2), or fails to act within 30 days  
24 after receiving the request, the department shall hold a hearing to  
25 determine by a preponderance of the evidence whether the report or  
26 record in whole or in part should be amended or expunged from the  
27 registry on the grounds that the report or record is not relevant

1 or accurate evidence of vulnerable adult abuse. The hearing shall  
2 be held before a hearing officer appointed by the department and  
3 shall be conducted as prescribed by the administrative procedures  
4 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

5 (4) If the investigation of a report conducted under this act  
6 fails to disclose evidence of vulnerable adult abuse, the  
7 information identifying the subject of the report shall be expunged  
8 from the registry. If evidence of abuse exists, the department  
9 shall maintain the information in the registry until the department  
10 receives reliable information that the perpetrator of the  
11 vulnerable adult abuse is dead.

12 (5) In releasing information under this act, the department  
13 shall not include a report compiled by a police agency or other law  
14 enforcement agency related to an ongoing investigation of suspected  
15 vulnerable adult abuse. This subsection does not prevent the  
16 department from releasing reports of convictions of crimes related  
17 to vulnerable adult abuse.

18 (6) An agency obtaining a confidential record under section  
19 7(1)(a) may seek an order from the court having jurisdiction over  
20 the vulnerable adult that allows the agency to disseminate  
21 confidential information to pursue sanctions for alleged  
22 dereliction, malfeasance, or misfeasance of duty against an  
23 employee of the agency, to a recognized labor union representative  
24 of the employee's bargaining unit, or to an arbitrator or an  
25 administrative law judge who conducts a hearing involving the  
26 employee's alleged dereliction, malfeasance, or misfeasance of duty  
27 to be used solely in connection with that hearing. Information

1 released under this subsection shall be released in a manner that  
2 maintains the greatest degree of confidentiality while allowing  
3 review of employee performance.

4 Sec. 11. (1) The department shall make information contained  
5 in the vulnerable adult registry and reports and records made under  
6 this act available to a standing or select committee or  
7 appropriations subcommittee of either house of the legislature  
8 having jurisdiction over protective services matters for vulnerable  
9 adults subject to all of the following:

10 (a) The department shall not provide confidential information  
11 protected by section 7 to the committee unless the committee  
12 members appointed and serving agree by roll call vote that the  
13 information is essential for the protection of Michigan vulnerable  
14 adults or for legislative oversight of the protective services  
15 program and that the confidential information will only be  
16 considered at a closed session of the committee. The affirmative  
17 vote required by this subdivision shall be by not less than the  
18 supermajority required by section 7 of the open meetings act, 1976  
19 PA 267, MCL 15.267, and may serve as the vote required under that  
20 section for holding a closed session.

21 (b) In addition to compliance with the open meetings act, 1976  
22 PA 267, MCL 15.261 to 15.275, a closed session held under this  
23 section shall comply with all of the following:

24 (i) Tape recording, camera, or other electronic equipment for  
25 documenting the proceedings shall not be permitted in the closed  
26 session.

27 (ii) Attendance at the closed session shall be limited to

1 committee members, other members of the legislature and legislative  
2 staff at the discretion of the chairperson, and staff members from  
3 the department designated by the director.

4 (2) A person who discloses or causes to be disclosed  
5 confidential information to which the person has gained access at a  
6 meeting held under this section is guilty of a misdemeanor. A  
7 person who keeps a confidential record or file, or a copy of a  
8 confidential record or file, at the conclusion of a closed session  
9 held under this section, which record or file is obtained at that  
10 meeting, is guilty of a misdemeanor.

11 Sec. 13. (1) Upon written request, the department may provide  
12 to an individual, or whoever is appropriate, documentation stating  
13 that the individual is not named in the vulnerable adult abuse  
14 registry as the perpetrator of vulnerable adult abuse.

15 (2) An individual or the department may share the document  
16 provided in subsection (1) with whoever is appropriate for the  
17 purpose of seeking employment or serving as a volunteer if that  
18 employment or volunteer work will include contact with vulnerable  
19 adults.

20 (3) An employer, a person or agency to whom an individual is  
21 applying for employment, or a volunteer agency, with appropriate  
22 authorization and identification from the individual, may request  
23 and receive vulnerable adult abuse registry clearance information  
24 if that employment or volunteer work will include contact with  
25 vulnerable adults.

26 (4) The department may develop an automated system that lists  
27 individuals who have not been named in the vulnerable adult abuse



1 registry as the perpetrator of vulnerable adult abuse. An  
2 individual applying for vulnerable adult-related employment or  
3 seeking to volunteer in a capacity that would allow unsupervised  
4 access to a vulnerable adult whose health or welfare the individual  
5 is not responsible for may be listed in that system if a screening  
6 of the individual finds that he or she has not been named in the  
7 vulnerable adult abuse registry as the perpetrator of vulnerable  
8 adult abuse. The automated system developed under this section  
9 shall provide for public access to the list of individuals who have  
10 been screened for the purposes of complying with this section. An  
11 automated system developed under this section shall have  
12 appropriate safeguards and procedures to ensure that information  
13 that is confidential under this act, state law, or federal law is  
14 not accessible or disclosed through that system.