

HOUSE BILL NO. 4704

June 11, 2019, Introduced by Reps. Crawford, Hall, Rendon, Webber, Reilly, Liberati, LaFave, Schroeder, Camilleri and Allor and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1975 PA 238, entitled "Child protection law," by amending sections 2 and 8e (MCL 722.622 and 722.628e), section 2 as amended by 2018 PA 59 and section 8e as added by 2008 PA 511.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
- 2 (a) "Abbreviated investigation" means an investigation in
- 3 which a full investigation with all investigative policy



1 requirements is not conducted and the department has determined
2 that the case will result in a category V disposition.

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

8 (c) ~~(b)~~—"Attorney" means, if appointed to represent a child
9 under the provisions referenced in section 10, an attorney serving
10 as the child's legal advocate in the manner defined and described
11 in section 13a of chapter XIIIA of the probate code of 1939, 1939 PA
12 288, MCL 712A.13a.

13 (d) ~~(e)~~—"Central registry" means the system maintained at the
14 department that is used to keep a record of all reports filed with
15 the department under this act in which relevant and accurate
16 evidence of child abuse or child neglect is found to exist.

17 (e) ~~(d)~~—"Central registry case" means a child protective
18 services case that the department classifies under sections 8 and
19 8d as category I or category II. For a child protective services
20 case that was investigated before July 1, 1999, central registry
21 case means an allegation of child abuse or child neglect that the
22 department substantiated.

23 (f) ~~(e)~~—"Centralized intake" means the department's statewide
24 centralized processing center for reports of suspected child abuse
25 and child neglect.

26 (g) ~~(f)~~—"Child" means a person under 18 years of age.

27 (h) ~~(g)~~—"Child abuse" means harm or threatened harm to a
28 child's health or welfare that occurs through nonaccidental
29 physical or mental injury, sexual abuse, sexual exploitation, or



1 maltreatment, by a parent, a legal guardian, or any other person
 2 responsible for the child's health or welfare or by a teacher, a
 3 teacher's aide, or a member of the clergy.

4 (i) ~~(h)~~—"Child care organization" means that term as defined
 5 in section 1 of 1973 PA 116, MCL 722.111.

6 (j) ~~(i)~~—"Child care provider" means an owner, operator,
 7 employee, or volunteer of a child care organization or of an adult
 8 foster care location authorized to care for a child.

9 (k) ~~(j)~~—"Child care regulatory agency" means the department of
 10 licensing and regulatory affairs or a successor state department
 11 that is responsible for the licensing or registration of child care
 12 organizations or the licensing of adult foster care locations
 13 authorized to care for a child.

14 (l) ~~(k)~~—"Child neglect" means harm or threatened harm to a
 15 child's health or welfare by a parent, legal guardian, or any other
 16 person responsible for the child's health or welfare that occurs
 17 through either of the following:

18 (i) Negligent treatment, including the failure to provide
 19 adequate food, clothing, shelter, or medical care, though
 20 financially able to do so, or by the failure to seek financial or
 21 other reasonable means to provide adequate food, clothing, shelter,
 22 or medical care.

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

28 (m) ~~(l)~~—"Children's advocacy center" means an entity accredited
 29 as a child advocacy center by the National Children's Alliance or



1 its successor agency or an entity granted associate or developing
2 membership status by the National Children's Alliance or its
3 successor agency.

4 (n) ~~(m)~~—"Citizen review panel" means a panel established as
5 required by section 5106a of the child abuse prevention and
6 treatment act, 42 USC 5106a.

7 ~~(n) "Member of the clergy" means a priest, minister, rabbi,
8 Christian science practitioner, or other religious practitioner, or
9 similar functionary of a church, temple, or recognized religious
10 body, denomination, or organization.~~

11 (o) "Controlled substance" means that term as defined in
12 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

13 (p) "CPSI system" means the child protective service
14 information system, which is an internal data system maintained
15 within and by the department, and which is separate from the
16 central registry and not subject to section 7.

17 (q) "Department" means the department of health and human
18 services.

19 (r) "Director" means the director of the department.

20 (s) "Expunge" means to physically remove or eliminate and
21 destroy a record or report.

22 (t) **"Investigation checklist" means a tool used by a
23 supervisor to review and verify compliance with investigation
24 requirements.**

25 (u) ~~(t)~~—"Lawyer-guardian ad litem" means an attorney appointed
26 under section 10 who has the powers and duties referenced by
27 section 10.

28 (v) ~~(u)~~—"Local office file" means the system used to keep a
29 record of a written report, document, or photograph filed with and



1 maintained by a county or a regionally based office of the
2 department.

3 **(w) "Member of the clergy" means a priest, minister, rabbi,**
4 **Christian science practitioner, or other religious practitioner, or**
5 **similar functionary of a church, temple, or recognized religious**
6 **body, denomination, or organization.**

7 **(x) ~~(v)~~**—"Nonparent adult" means a person who is 18 years of
8 age or older and who, regardless of the person's domicile, meets
9 all of the following criteria in relation to a child:

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

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

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

15 **(y) ~~(w)~~**—"Online reporting system" means the electronic system
16 established by the department for individuals identified in section
17 3(1) to report suspected child abuse or child neglect.

18 **(z) ~~(x)~~**—"Person responsible for the child's health or welfare"
19 means a parent, legal guardian, person 18 years of age or older who
20 resides for any length of time in the same home in which the child
21 resides, or, except when used in section 7(2)(e) or 8(8), nonparent
22 adult; or an owner, operator, volunteer, or employee of 1 or more
23 of the following:

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

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

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



1 **(aa)** ~~(y)~~—"Relevant evidence" means evidence having a tendency
2 to make the existence of a fact that is at issue more probable than
3 it would be without the evidence.

4 **(bb)** ~~(z)~~—"Sexual abuse" means engaging in sexual contact or
5 sexual penetration as those terms are defined in section 520a of
6 the Michigan penal code, 1931 PA 328, MCL 750.520a, with a child.

7 **(cc)** ~~(aa)~~—"Sexual exploitation" includes allowing, permitting,
8 or encouraging a child to engage in prostitution, or allowing,
9 permitting, encouraging, or engaging in the photographing, filming,
10 or depicting of a child engaged in a listed sexual act as defined
11 in section 145c of the Michigan penal code, 1931 PA 328, MCL
12 750.145c.

13 **(dd)** ~~(bb)~~—"Specified information" means information in a
14 children's protective services case record related specifically to
15 the department's actions in responding to a complaint of child
16 abuse or child neglect. Specified information does not include any
17 of the following:

18 (i) Except as provided in this subparagraph regarding a
19 perpetrator of child abuse or child neglect, personal
20 identification information for any individual identified in a child
21 protective services record. The exclusion of personal
22 identification information as specified information prescribed by
23 this subparagraph does not include personal identification
24 information identifying an individual alleged to have perpetrated
25 child abuse or child neglect, which allegation has been classified
26 as a central registry case.

27 (ii) Information in a police agency report or other law
28 enforcement agency report as provided in section 7(8).

29 (iii) Any other information that is specifically designated as



1 confidential under other law.

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

4 (ee) ~~(ee)~~ "Structured decision-making tool" means the
5 department document labeled "DSS-4752 (P3) (3-95)" or a revision of
6 that document that better measures the risk of future harm to a
7 child.

8 (ff) ~~(dd)~~ "Substantiated" means a child protective services
9 case classified as a central registry case.

10 (gg) ~~(ee)~~ "Unsubstantiated" means a child protective services
11 case the department classifies under sections 8 and 8d as category
12 III, category IV, or category V.

13 Sec. 8e. (1) ~~The department shall implement~~ **Except as provided**
14 **in subsection (5)**, an investigation checklist ~~to~~ **shall** be used in
15 each investigation of suspected abuse and **child** neglect handled by
16 the department.

17 (2) Subject to subsections (3), ~~and (4)~~, **and (5)**, an
18 investigation shall not be closed until the checklist described in
19 subsection (1) is completed.

20 (3) ~~A~~ **If an investigation is not an abbreviated investigation,**
21 **a** supervisor must review the completed checklist. If the supervisor
22 determines that the investigation complies with the investigation
23 checklist and with the following state laws and department policy,
24 the investigation may be closed:

25 (a) Face-to-face contact was made with all alleged child
26 victims.

27 (b) A petition was filed as required by sections 8d(1)(e), 17,
28 and 18.

29 (c) A petition was filed when court intervention was needed to



1 ensure child safety.

2 (d) Any other items that impact child safety and well-being
3 that are specifically outlined in department policy to require the
4 approvals outlined in subsection (4).

5 (4) If **an investigation is not an abbreviated investigation**
6 **and** the supervisor determines that the investigation does not
7 comply with the investigation checklist and the state laws and
8 department policy outlined in subsection (3), the supervisor shall
9 determine the reason the investigation checklist and state law or
10 department policy outlined in subsection (3) were not followed. An
11 investigation that falls under this subsection shall not be closed
12 until after the local office director has reviewed the
13 investigation.

14 (5) **A caseworker must document why an investigation was an**
15 **abbreviated investigation. An investigation checklist is not**
16 **required for an abbreviated investigation. Before an abbreviated**
17 **investigation can be closed, the investigation must be approved by**
18 **the county director or his or her designee. If this review and**
19 **approval does not occur, the caseworker must conduct a full**
20 **investigation.**

