

**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2022**

Introduced by Reps. LaGrand, Stone, Hood, Aiyash, Hope, Tyrone Carter, O'Neal, Weiss, Witwer,
Anthony, Kuppa, Bezotte, Huizenga, Rendon, Maddock, Wozniak, Meerman and Yancey

ENROLLED HOUSE BILL No. 5275

AN ACT to amend 1975 PA 238, entitled "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," by amending section 7j (MCL 722.627j), as amended by 2010 PA 81.

The People of the State of Michigan enact:

Sec. 7j. (1) The department must maintain a statewide, electronic case management system to carry out the intent of this act. The department may enter into vendor contracts that it considers necessary and proper for implementation, review, and update of the electronic case management system. The department must solicit proposals from entities to provide the services necessary to implement, review, and update the electronic case management system.

(2) The department must classify a confirmed case of methamphetamine production, confirmed serious abuse or neglect, confirmed sexual abuse, or confirmed sexual exploitation, as a central registry case.

(3) In addition to a case classified under subsection (2), a court in this state entering an order of conviction for a violation of section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b, a conviction for a violation of chapter LXXVI of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520o, involving a minor victim, a conviction for a violation of section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c, and any conviction involving the death of a child must request that the conviction be classified as a central registry case by the department. The department, with cooperation from the state court administrative office, must promulgate rules to regulate this referral process.

(4) At any time, an individual who has been placed on the central registry under subsection (3) may request, and the court shall request, an individual's name be removed from the central registry upon the individual prevailing in a motion to the convicting court for the following reasons:

(a) The individual was not convicted of an offense listed under this section.

(b) Demonstrating that the individual's conviction of the offense that caused the individual to be placed on the central registry has been expunged.

(5) Not more than once every 10 years after an individual has been placed on the central registry under subsection (3), the individual may make a motion to the convicting court to request removal from the central registry. In a hearing on this motion, the individual is presumed to be a risk to children, and the burden is on the individual requesting to be removed from the central registry. If the individual demonstrates that the presumption is unreasonable, the court shall request that the department remove the individual from the central registry.

(6) Within 30 days after the classification of a central registry case, the department must notify in writing each person who is named in the record as a perpetrator of the confirmed serious abuse or neglect, confirmed sexual abuse, confirmed sexual exploitation, or confirmed case of methamphetamine production. The notice requirements include all of the following:

(a) The notice must be sent by registered or certified mail, return receipt requested, and delivery restricted to the addressee.

(b) The notice must set forth the person's right to request expunction of the record and the right to a hearing if the department refuses the request.

(c) The notice must state that the record may be released under section 7d.

(d) The notice must not identify the person reporting the suspected child abuse or child neglect.

(7) An individual who is the subject of a report or record made under this section may request the department amend an inaccurate report or record from the central registry and local office file. This subsection does not apply to an individual for which the court has entered an order of conviction described in subsection (3).

(8) If the department denies the request to amend a report, an individual who is the subject of a report or record made under this section 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. This subsection does not apply to an individual for which the court has entered an order of conviction described in subsection (3).

(9) The department must hold a hearing to determine by a preponderance of the evidence whether the report or record in whole or in part meets the statutory requirement of confirmed serious abuse or neglect, confirmed sexual abuse, confirmed sexual exploitation, or confirmed case of methamphetamine production and should be amended or expunged from the central registry. The hearing must be held before an administrative law judge and must 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. This subsection does not apply to an individual for which the court has entered an order of conviction described in subsection (3).

(10) If the investigation of a report conducted under this section does not show serious child abuse or child neglect, sexual abuse, sexual exploitation, or methamphetamine production by a preponderance of the evidence, or if a court dismisses a petition based on the merits of the petition filed under section 2(b) of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, because the petitioner has failed to establish, or a court has failed to find, that the child comes within the jurisdiction of the court following an adjudication hearing, the information identifying the subject of the report must be expunged from the central registry after a party has exhausted all appellate remedies and an appellate review does not find that the child is within the jurisdiction of the court. If a preponderance of evidence of child abuse or child neglect exists, or if a court takes jurisdiction of the child under section 2(b) of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, the department must maintain the information and must maintain the perpetrator's information in the central registry if the case is determined to be a confirmed case of methamphetamine production, confirmed serious abuse or neglect, confirmed sexual abuse, or confirmed sexual exploitation. This subsection does not apply to an individual for which the court has entered an order of conviction described in subsection (3).

(11) Except as otherwise provided in this section, the department must maintain the information in the central registry until the department receives reliable information that the perpetrator is dead. Not more than once every 10 years after an individual has been listed on the central registry, the individual may request a hearing regarding removal from the central registry. Except for confirmed sexual abuse or confirmed sexual exploitation, the

department must hold a hearing to determine whether the information should be maintained on the central registry. The hearing must be held before an administrative law judge and must be conducted as prescribed by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. In this hearing, the individual is presumed to be a risk to children and the burden of proof is on the individual requesting to be removed from the central registry. If the individual demonstrates by a preponderance of the evidence that the presumption is unreasonable, then the information must be expunged from the central registry. The facts and circumstances as determined by the department or an administrative law judge on review of the department's decision that resulted in the individual originally being placed on the central registry are not subject to review. The administrative law judge shall take into account the facts and circumstances in the years since the individual was listed on the central registry that bear on the assessment of the individual's risk to children in the future. For the purpose of this subsection, "reliable information" includes, but is not limited to, information obtained using the United States Social Security death index database. This subsection does not apply to an individual for which the court has entered an order of conviction described in subsection (3).

(12) Upon written request, the department may provide confirmation of central registry placement to an individual, office, or agency authorized to receive it.

(13) A person or the department may share the document provided in subsection (12) 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.

(14) An individual or organization for whom a person is applying for employment, licensing for a child care organization, or to act as a volunteer, may, with appropriate authorization and identification, request and receive confirmation of central registry placement, if that employment or volunteer work includes contact with children.

(15) A parent or other person responsible for a child, who has reason to believe another caregiver may place that child at risk, may, with appropriate authorization and identification, receive confirmation of central registry placement of that parent, person responsible, or caregiver. This request must be made through the office of the friend of the court created in section 3 of the friend of the court act, 1982 PA 294, MCL 552.503.

(16) The department may develop an automated system that will allow a person applying for child-related employment or seeking to volunteer in a capacity that would allow unsupervised access to a child for whom the person is not a person responsible for that child's health or welfare to be listed in that system if a screening of the person finds that he or she has not been named in a central registry case as the perpetrator of a confirmed case of methamphetamine production, confirmed serious abuse or neglect, confirmed sexual abuse, or confirmed sexual exploitation. The automated system developed under this section must provide for public access to the list of persons who have been screened for the purposes of complying with this section. An automated system developed under this section must 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.

(17) An action taken to exclude an individual from licensure to provide foster care, child care, or camp services by the department of licensing and regulatory affairs or the division of child welfare licensing in the department, or a predecessor agency, in effect before the effective date of the amendatory act that added this subsection, must remain in effect according to its terms, except if an individual is successful in an administrative review or appeal of the exclusionary status in accord with section 9 of 1973 PA 116, MCL 722.119.

(18) In addition to the central registry clearance, the department must search children's protective services records to determine if an applicant or licensee, relative, adult member of the household, licensee designee, chief administrator, staff member, or unsupervised volunteer has a children's protective services history before making a licensing or placement determination, or provide clearance for staff employment or a volunteer in a child caring organization.

Enacting section 1. This amendatory act takes effect 180 days after the date it is enacted into law.

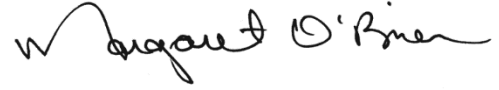
Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 101st Legislature are enacted into law:

- (a) House Bill No. 5274.
- (b) House Bill No. 5276.
- (c) House Bill No. 5277.
- (d) House Bill No. 5278.
- (e) House Bill No. 5534.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor