

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

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

ENROLLED HOUSE BILL No. 5277

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 2 (MCL 722.622), as amended by 2018 PA 59.

The People of the State of Michigan enact:

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 XA of the probate code of 1939, 1939 PA 288, MCL 712A.13a.

(c) "Central registry" means a repository of names of individuals who are identified as perpetrators related to a central registry case in the department's statewide electronic case management system.

(d) "Central registry case" means the department confirmed that a person responsible for the child's health or welfare committed serious abuse or neglect, sexual abuse, or sexual exploitation of a child, or allowed a child to be exposed to or have contact with methamphetamine production.

(e) “Centralized intake” means the department’s statewide centralized processing center for reports of suspected child abuse and child neglect.

(f) “Child” means an individual under 18 years of age.

(g) “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, any other person responsible for the child’s health or welfare, a teacher, a teacher’s aide, a member of the clergy, or an individual 18 years of age or older who is involved with a youth program.

(h) “Child care organization” means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(i) “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.

(j) “Child care regulatory agency” means the department of licensing and regulatory affairs, the department’s division of child welfare licensing, 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.

(k) “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, though financially able to do so, or by the failure to seek financial or other reasonable means 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.

(l) “Children’s advocacy center” means an entity accredited as a child advocacy center by the National Children’s Alliance or its successor agency or an entity granted associate or developing membership status by the National Children’s Alliance or its successor agency.

(m) “Citizen review panel” means a panel established as required by section 5106a of the child abuse prevention and treatment act, 42 USC 5106a.

(n) “Confirmed case” means the department has determined, by a preponderance of evidence, that child abuse or child neglect occurred by a person responsible for the child’s health, welfare, or care.

(o) “Confirmed case of methamphetamine production” means a confirmed case that involved a child’s exposure or contact with methamphetamine production.

(p) “Confirmed serious abuse or neglect” means a confirmed case of mental injury or physical injury or neglect to a child that involves any of the following:

(i) Battering, torture, or other serious physical harm.

(ii) Loss or serious impairment of an organ or limb.

(iii) Life-threatening injury.

(iv) Murder or attempted murder.

(v) Serious mental harm.

(q) “Confirmed sexual abuse” means a confirmed case that involves sexual penetration, sexual contact, attempted sexual penetration, or assault with intent to penetrate as those terms are defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a.

(r) “Confirmed sexual exploitation” means a confirmed case that involves 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 that term is defined in section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(s) “Controlled substance” means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(t) “Department” means the department of health and human services.

(u) “Director” means the director of the department.

(v) “Electronic case management system” means the child protective service information system, that is an internal data system maintained within and by the department.

(w) “Expunge” means to physically remove or eliminate and destroy a record or report.

(x) “Lawyer-guardian ad litem” means an attorney appointed under section 10 who has the powers and duties referenced by section 10.

(y) “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.

(z) “Member of the clergy” means a priest, minister, rabbi, Christian science practitioner, spiritual leader, or other religious practitioner, or similar functionary of a church, temple, spiritual community, or recognized religious body, denomination, or organization.

(aa) “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.

(bb) “Online reporting system” means the electronic system established by the department for individuals identified in section 3(1) to report suspected child abuse or child neglect.

(cc) “Person responsible for the child’s health or welfare” means a parent, legal guardian, individual 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(1)(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.

(dd) “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.

(ee) “Serious mental harm” and “serious physical harm” mean those terms as defined in section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b.

(ff) “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 police agency report or other law enforcement agency report as provided in section 7(3).

(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.

(gg) “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.

(hh) “Substantiated” means a confirmed case.

(ii) “Unsubstantiated” means a case that is not confirmed.

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:

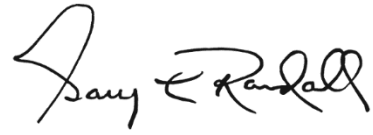
(a) House Bill No. 5274.

(b) House Bill No. 5275.

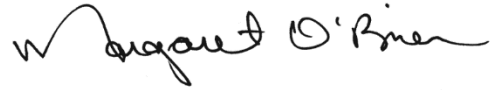
(c) House Bill No. 5276.

(d) House Bill No. 5278.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor