

HOUSE BILL NO. 5277

August 18, 2021, 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 and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending section 2 (MCL 722.622), as amended by 2018 PA 59.

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

1 is placed in accordance with section 5 of 1973 PA 116, MCL 722.115.

2 (b) "Attorney" means, if appointed to represent a child under
3 the provisions referenced in section 10, an attorney serving as the
4 child's legal advocate in the manner defined and described in
5 section 13a of chapter XIIIA of the probate code of 1939, 1939 PA
6 288, MCL 712A.13a.

7 (c) "Central registry" means ~~the system maintained at the~~
8 ~~department that is used to keep a record of all reports filed with~~
9 ~~the department under this act in which relevant and accurate~~
10 ~~evidence of child abuse or child neglect is found to exist.~~**a**
11 **repository of names of individuals who are identified as**
12 **perpetrators related to a central registry case in the department's**
13 **statewide electronic case management system.**

14 (d) "Central registry case" means ~~a child protective services~~
15 ~~case that the department classifies under sections 8 and 8d as~~
16 ~~category I or category II. For a child protective services case~~
17 ~~that was investigated before July 1, 1999, central registry case~~
18 ~~means an allegation of child abuse or child neglect that the~~
19 ~~department substantiated.~~**the department confirmed that a person**
20 **responsible for the child's health or welfare committed serious**
21 **abuse, serious neglect, sexual abuse, or sexual exploitation of a**
22 **child, or allowed a child to be exposed to or have contact with**
23 **methamphetamine production.**

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

27 (f) "Child" means ~~a person~~**an individual** under 18 years of
28 age.

29 (g) "Child abuse" means harm or threatened harm to a child's

1 health or welfare that occurs through nonaccidental physical or
2 mental injury, sexual abuse, sexual exploitation, or maltreatment,
3 by a parent, a legal guardian, or any other person responsible for
4 the child's health or welfare or by a teacher, a teacher's aide, or
5 a member of the clergy.

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

8 (i) "Child care provider" means an owner, operator, employee,
9 or volunteer of a child care organization or of an adult foster
10 care location authorized to care for a child.

11 (j) "Child care regulatory agency" means the department of
12 licensing and regulatory affairs, **the department division of child**
13 **welfare licensing**, or a successor state department that is
14 responsible for the licensing or registration of child care
15 organizations or the licensing of adult foster care locations
16 authorized to care for a child.

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

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

26 (ii) Placing a child at an unreasonable risk to the child's
27 health or welfare by failure of the parent, legal guardian, or
28 other person responsible for the child's health or welfare to
29 intervene to eliminate that risk when that person is able to do so

1 and has, or should have, knowledge of the risk.

2 (l) "Children's advocacy center" means an entity accredited as
3 a child advocacy center by the National Children's Alliance or its
4 successor agency or an entity granted associate or developing
5 membership status by the National Children's Alliance or its
6 successor agency.

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

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

14 (n) "Confirmed case" means the department has determined, by a
15 preponderance of evidence, that child abuse or child neglect
16 occurred by a person responsible for the child's health, welfare,
17 or care.

18 (o) "Confirmed case of methamphetamine production" means a
19 confirmed case that involved a child's exposure or contact with
20 methamphetamine production.

21 (p) "Confirmed serious abuse or neglect" means a confirmed
22 case of mental or physical injury or neglect to a child that
23 involves the following:

24 (i) Battering, torture, or other severe physical abuse.

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

26 (iii) Life-threatening injury.

27 (iv) Murder or attempted murder.

28 (v) Neglect that seriously impairs a child's physical or
29 mental health or well-being.

1 **(q) "Confirmed sexual abuse"** means a confirmed case that
2 involves penetration, attempted penetration, or assault with intent
3 to penetrate as that term is defined in section 520a of the
4 Michigan penal code, 1931 PA 328, MCL 750.520a.

5 **(r) "Confirmed sexual exploitation"** means a confirmed case
6 that involves allowing, permitting, or encouraging a child to
7 engage in prostitution, or allowing, permitting, encouraging, or
8 engaging in the photographing, filming, or depicting of a child
9 engaged in a listed sexual act as that term is defined in section
10 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

11 **(s) ~~(e)~~**"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 **(t) ~~(e)~~**"Department" means the department of health and human
18 services.

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

20 **(v) "Electronic case management system"** means the child
21 protective service information system, that is an internal data
22 system maintained within and by the department.

23 **(w) ~~(s)~~**"Expunge" means to physically remove or eliminate and
24 destroy a record or report.

25 **(x) ~~(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 **(y) ~~(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 **(z) "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 **(aa) ~~(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 **(bb) ~~(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 **(cc) ~~(x)~~**"Person responsible for the child's health or
19 welfare" means a parent, legal guardian, ~~person~~**individual** 18 years
20 of age or older who resides for any length of time in the same home
21 in which the child resides, or, except when used in section ~~7(2)(e)~~
22 **7(1)(e)** or 8(8), nonparent adult; or an owner, operator, volunteer,
23 or employee of 1 or more 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 **(dd)** ~~(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 ~~(z)~~ "Sexual abuse" means engaging in sexual contact or sexual
5 penetration as those terms are defined in section 520a of the
6 Michigan penal code, 1931 PA 328, MCL 750.520a, with a child.

7 ~~(aa)~~ "Sexual exploitation" includes allowing, permitting, or
8 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 **(ee)** ~~(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)~~ **7(3)**.

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

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

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

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

18 (a) Senate Bill No. ____ or House Bill No. 5276 (request no.
19 00901'21).

20 (b) Senate Bill No. ____ or House Bill No. 5278 (request no.
21 03591'21).

22 (c) Senate Bill No. ____ or House Bill No. 5275 (request no.
23 03592'21).

24 (d) Senate Bill No. ____ or House Bill No. 5274 (request no.
25 03593'21).