

HOUSE BILL NO. 5940

March 22, 2022, Introduced by Reps. Brann, Sabo, LaGrand and Jones and referred to the Committee on Health Policy.

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 XIIA 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.

11 (d) "Central registry case" means a child protective services
12 case that the department classifies under sections 8 and 8d as
13 category I or category II. For a child protective services case
14 that was investigated before July 1, 1999, central registry case
15 means an allegation of child abuse or child neglect that the
16 department substantiated.

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

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

22 (g) "Child abuse" means harm or threatened harm to a child's
23 health or welfare **or serious mental or emotional abuse** that occurs
24 through nonaccidental physical or mental injury, sexual abuse,
25 sexual exploitation, or maltreatment, by a parent, a legal
26 guardian, or any other person responsible for the child's health or
27 welfare or by a teacher, a teacher's aide, or a member of the
28 clergy.

29 (h) "Child care organization" means that term as defined in

1 section 1 of 1973 PA 116, MCL 722.111.

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

5 (j) "Child care regulatory agency" means the department of
6 licensing and regulatory affairs or a successor state department
7 that is responsible for the licensing or registration of child care
8 organizations or the licensing of adult foster care locations
9 authorized to care for a child.

10 (k) "Child neglect" means harm or threatened harm to a child's
11 health or welfare **or serious mental or emotional abuse** by a parent,
12 legal guardian, or any other person responsible for the child's
13 health or welfare that occurs through either of the following:

14 (i) Negligent treatment, including the failure to provide
15 adequate food, clothing, shelter, or medical care, though
16 financially able to do so, or by the failure to seek financial or
17 other reasonable means to provide adequate food, clothing, shelter,
18 or medical care.

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

24 (l) "Children's advocacy center" means an entity accredited as
25 a child advocacy center by the National Children's Alliance or its
26 successor agency or an entity granted associate or developing
27 membership status by the National Children's Alliance or its
28 successor agency.

29 (m) "Citizen review panel" means a panel established as

1 required by section 5106a of the child abuse prevention and
2 treatment act, 42 USC 5106a.

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

9 (o) ~~(p)~~ "CPSI system" means the child protective service
10 information system, which is an internal data system maintained
11 within and by the department, and which is separate from the
12 central registry and not subject to section 7.

13 (p) ~~(q)~~ "Department" means the department of health and human
14 services.

15 (q) ~~(r)~~ "Director" means the director of the department.

16 (r) ~~(s)~~ "Expunge" means to physically remove or eliminate and
17 destroy a record or report.

18 (s) ~~(t)~~ "Lawyer-guardian ad litem" means an attorney appointed
19 under section 10 who has the powers and duties referenced by
20 section 10.

21 (t) ~~(u)~~ "Local office file" means the system used to keep a
22 record of a written report, document, or photograph filed with and
23 maintained by a county or a regionally based office of the
24 department.

25 (u) **"Member of the clergy" means a priest, minister, rabbi,**
26 **Christian science practitioner, or other religious practitioner, or**
27 **similar functionary of a church, temple, or recognized religious**
28 **body, denomination, or organization.**

29 (v) "Nonparent adult" means a person who is 18 years of age or

1 older and who, regardless of the person's domicile, meets all of
2 the following criteria in relation to a child:

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

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

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

8 (w) "Online reporting system" means the electronic system
9 established by the department for individuals identified in section
10 3(1) to report suspected child abuse or child neglect.

11 (x) "Person responsible for the child's health or welfare"
12 means a parent, legal guardian, person 18 years of age or older who
13 resides for any length of time in the same home in which the child
14 resides, or, except when used in section 7(2)(e) or 8(8), nonparent
15 adult; or an owner, operator, volunteer, or employee of 1 or more
16 of the following:

17 (i) A licensed ~~or registered~~ child care organization.

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

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

23 (y) "Relevant evidence" means evidence having a tendency to
24 make the existence of a fact that is at issue more probable than it
25 would be without the evidence.

26 **(z) "Serious mental or emotional abuse" means a condition that**
27 **is exhibited by a child's severe anxiety, depression, withdrawal,**
28 **or aggressive behavior toward himself, herself, or others.**

29 (aa) ~~(z)~~ "Sexual abuse" means engaging in sexual contact or

1 sexual penetration as those terms are defined in section 520a of
 2 the Michigan penal code, 1931 PA 328, MCL 750.520a, with a child.

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

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

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

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

25 (iii) Any other information that is specifically designated as
 26 confidential under other law.

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

29 **(dd)** ~~(cc)~~—"Structured decision-making tool" means the

1 department document labeled "DSS-4752 (P3) (3-95)" or a revision of
2 that document that better measures the risk of future harm to a
3 child.

4 **(ee)** ~~(dd)~~—"Substantiated" means a child protective services
5 case classified as a central registry case.

6 **(ff)** ~~(ee)~~—"Unsubstantiated" means a child protective services
7 case the department classifies under sections 8 and 8d as category
8 III, category IV, or category V.