

SENATE BILL No. 439

April 28, 2005, Introduced by Senators SCHAUER, BASHAM, SCOTT, LELAND and GOSCHKA and referred to the Committee on Families and Human Services.

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending section 2 (MCL 722.622), as amended by 2004 PA 563.

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

7 (b) "Attorney" means, if appointed to represent a child under
8 the provisions referenced in section 10, an attorney serving as the

1 child's legal advocate in the manner defined and described in
2 section 13a of chapter XIIA of the probate code of 1939, 1939 PA
3 288, MCL 712A.13a.

4 (c) "Central registry" means the system maintained at the
5 department that is used to keep a record of all reports filed with
6 the department under this act in which relevant and accurate
7 evidence of child abuse or neglect is found to exist.

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

14 (e) "Child" means a person under 18 years of age.

15 (f) "Child abuse" means harm or threatened harm to a child's
16 health or welfare that occurs through nonaccidental physical or
17 mental injury, sexual abuse, sexual exploitation, or maltreatment,
18 by a parent, a legal guardian, or any other person responsible for
19 the child's health or welfare or by a teacher, a teacher's aide, or
20 a member of the clergy.

21 (g) "Child care organization" means that term as defined in
22 section 1 of 1973 PA 116, MCL 722.111.

23 (h) "Child care provider" means an owner, operator, employee,
24 or volunteer of a child care organization or of an adult foster
25 care location authorized to care for a child.

26 (i) "Child care regulatory agency" means the department of
27 consumer and industry services or a successor state department that

1 is responsible for the licensing or registration of child care
2 organizations or the licensing of adult foster care locations
3 authorized to care for a child.

4 (j) "Child neglect" means harm or threatened harm to a child's
5 health or welfare by a parent, legal guardian, or any other person
6 responsible for the child's health or welfare that occurs through
7 either of the following:

8 (i) Negligent treatment, including the failure to provide
9 adequate food, clothing, shelter, or medical care.

10 (ii) Placing a child at an unreasonable risk to the child's
11 health or welfare by failure of the parent, legal guardian, or
12 other person responsible for the child's health or welfare to
13 intervene to eliminate that risk ~~when~~ IF that person is able to
14 do so and has, or should have, knowledge of the risk.

15 (iii) **MANUFACTURING, CREATING, DELIVERING, OR POSSESSING WITH**
16 **INTENT TO MANUFACTURE, CREATE, OR DELIVER A CONTROLLED SUBSTANCE IN**
17 **VIOLATION OF PART 74 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL**
18 **333.7401 TO 333.7461, IN THE PRESENCE OF A CHILD. A CASE IN WHICH**
19 **THE DEPARTMENT DETERMINES THAT THERE IS CHILD NEGLECT DESCRIBED**
20 **UNDER THIS SUBPARAGRAPH SHALL BE CLASSIFIED AS A CATEGORY I CASE.**

21 (k) "Citizen review panel" means a panel established as
22 required by section 106 of title I of the child abuse prevention
23 and treatment act, ~~Public Law 93-247,~~ 42 ~~U.S.C.~~ USC 5106a.

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

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

3 (n) "CPSI system" means the child protective service
4 information system, which is an internal data system maintained
5 within and by the department, and which is separate from the
6 central registry and not subject to section 7.

7 (o) "Department" means the family independence agency.

8 (p) "Director" means the director of the department.

9 (q) "Expunge" means to physically remove or eliminate and
10 destroy a record or report.

11 (r) "Lawyer-guardian ad litem" means an attorney appointed
12 under section 10 who has the powers and duties referenced by
13 section 10.

14 (s) "Local office file" means the system used to keep a record
15 of a written report, document, or photograph filed with and
16 maintained by a county or a regionally based office of the
17 department.

18 (t) "Nonparent adult" means a person who is 18 years of age or
19 older and who, regardless of the person's domicile, meets all of
20 the following criteria in relation to a child:

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

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

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

26 (u) "Person responsible for the child's health or welfare"
27 means a parent, legal guardian, person 18 years of age or older who

1 resides for any length of time in the same home in which the child
2 resides, or, except ~~when~~ **IF** used in section 7(2)(e) or 8(8),
3 nonparent adult; or an owner, operator, volunteer, or employee of 1
4 or more of the following:

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

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

9 (v) "Relevant evidence" means evidence having a tendency to
10 make the existence of a fact that is at issue more probable than it
11 would be without the evidence.

12 (w) "Sexual abuse" means engaging in sexual contact or sexual
13 penetration as those terms are defined in section 520a of the
14 Michigan penal code, 1931 PA 328, MCL 750.520a, with a child.

15 (x) "Sexual exploitation" includes allowing, permitting, or
16 encouraging a child to engage in prostitution, or allowing,
17 permitting, encouraging, or engaging in the photographing, filming,
18 or depicting of a child engaged in a listed sexual act as defined
19 in section 145c of the Michigan penal code, 1931 PA 328, MCL
20 750.145c.

21 (y) "Specified information" means information in a children's
22 protective services case record related specifically to the
23 department's actions in responding to a complaint of child abuse or
24 neglect. Specified information does not include any of the
25 following:

26 (i) Except as provided in this subparagraph regarding a
27 perpetrator of child abuse or neglect, personal identification

1 information for any individual identified in a child protective
2 services record. The exclusion of personal identification
3 information as specified information prescribed by this
4 subparagraph does not include personal identification information
5 identifying an individual alleged to have perpetrated child abuse
6 or neglect, which allegation has been classified as a central
7 registry case.

8 (ii) Information in a law enforcement report as provided in
9 section 7(8).

10 (iii) Any other information that is specifically designated as
11 confidential under other law.

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

14 (z) "Structured decision-making tool" means the department
15 document labeled "DSS-4752 (P3) (3-95)" or a revision of that
16 document that better measures the risk of future harm to a child.

17 (aa) "Substantiated" means a child protective services case
18 classified as a central registry case.

19 (bb) "Unsubstantiated" means a child protective services case
20 the department classifies under sections 8 and 8d as category III,
21 category IV, or category V.