

SENATE BILL No. 1410

September 7, 2006, Introduced by Senator HARDIMAN and referred to the Committee on Families and Human Services.

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending sections 2 and 3 (MCL 722.622 and 722.623), section 2
as amended by 2004 PA 563 and section 3 as amended by 2006 PA 264.

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

1 the provisions referenced in section 10, an attorney serving as the
2 child's legal advocate in the manner defined and described in
3 section 13a of chapter XIIIA of the probate code of 1939, 1939 PA
4 288, MCL 712A.13a.

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

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

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

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

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

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

27 (i) "Child care regulatory agency" means the department ~~of~~

1 ~~consumer and industry services~~ or a successor state department
2 that is responsible for the licensing or registration of child care
3 organizations or the licensing of adult foster care locations
4 authorized to care for a child.

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

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

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

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

19 (l) "Member of the clergy" means a priest, minister, rabbi,
20 Christian science practitioner, or other religious practitioner, or
21 similar functionary of a church, temple, or recognized religious
22 body, denomination, or organization.

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

25 (n) "CPSI system" means the child protective service
26 information system, which is an internal data system maintained
27 within and by the department ~~—~~ and which is separate from the

1 central registry and not subject to section 7.

2 (o) "Department" means the ~~family independence agency~~
 3 **DEPARTMENT OF HUMAN SERVICES.**

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

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

7 **(R) "HIGH RISK" MEANS A REPORT OF ALLEGED CHILD ABUSE OR**
 8 **NEGLECT INVOLVING DEATH OR SERIOUS INJURY, ALLEGED PHYSICAL,**
 9 **SEXUAL, OR EMOTIONAL ABUSE, NEGLECT, ENDANGERMENT, OR EXPLOITATION,**
 10 **OR ANY SITUATION THAT THREATENS THE LIFE OF A CHILD.**

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

14 **(T) —(s)—** "Local office file" means the system used to keep a
 15 record 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 **(U) —(t)—** "Nonparent adult" means a person who is 18 years of
 19 age or older and who, regardless of the person's domicile, meets
 20 all of 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 **(V) —(u)—** "Person responsible for the child's health or
 27 welfare" means a parent, legal guardian, person 18 years of age or

1 older who resides for any length of time in the same home in which
2 the child resides, or, except ~~when~~ **IF** used in section 7(2)(e) or
3 8(8), nonparent adult; or an owner, operator, volunteer, or
4 employee of 1 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 **(W)** ~~-(v)-~~ "Relevant evidence" means evidence having a tendency
10 to make the existence of a fact that is at issue more probable than
11 it would be without the evidence.

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

15 **(Y)** ~~-(x)-~~ "Sexual exploitation" includes allowing, permitting,
16 or 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 **(Z)** ~~-(y)-~~ "Specified information" means information in a
22 children's protective services case record related specifically to
23 the department's actions in responding to a complaint of child
24 abuse or 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 **(AA)** ~~-(z)-~~ "Structured decision-making tool" means the
15 department document labeled "DSS-4752 (P3) (3-95)" or a revision of
16 that document that better measures the risk of future harm to a
17 child.

18 **(BB)** ~~-(aa)-~~ "Substantiated" means a child protective services
19 case classified as a central registry case.

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

23 Sec. 3. (1) An individual is required to report under this act
24 as follows:

25 (a) A physician, dentist, physician's assistant, registered
26 dental hygienist, medical examiner, nurse, person licensed to
27 provide emergency medical care, audiologist, psychologist, marriage

1 and family therapist, licensed professional counselor, social
2 worker, licensed master's social worker, licensed bachelor's social
3 worker, registered social service technician, social service
4 technician, school administrator, school counselor or teacher, law
5 enforcement officer, member of the clergy, or regulated child care
6 provider who has reasonable cause to suspect child abuse or neglect
7 shall make immediately, by telephone or otherwise, an oral report,
8 or cause an oral report to be made, of the suspected child abuse or
9 neglect to the department. Within 72 hours after making the oral
10 report, the reporting person **UNDER THIS SUBDIVISION OR SUBDIVISION**
11 **(B)** shall file a written report as required in this act. If the
12 reporting person is a member of the staff of a hospital, agency, or
13 school, the reporting person shall notify the person in charge of
14 the hospital, agency, or school of his or her finding and that the
15 report has been made, and shall make a copy of the written report
16 available to the person in charge. A notification to the person in
17 charge of a hospital, agency, or school does not relieve the member
18 of the staff of the hospital, agency, or school of the obligation
19 of reporting to the department as required by this section. One
20 report from a hospital, agency, or school is adequate to meet the
21 reporting requirement. A member of the staff of a hospital, agency,
22 or school shall not be dismissed or otherwise penalized for making
23 a report required by this act or for cooperating in an
24 investigation.

25 (b) A department employee who is 1 of the following and has
26 reasonable cause to suspect child abuse or neglect shall make ~~a~~
27 ~~report~~ **IMMEDIATELY, BY TELEPHONE OR OTHERWISE, AN ORAL REPORT, OR**

1 **CAUSE AN ORAL REPORT TO BE MADE,** of suspected child abuse or
2 neglect to the department:

- 3 (i) Eligibility specialist.
- 4 (ii) Family independence manager.
- 5 (iii) Family independence specialist.
- 6 (iv) Social services specialist.
- 7 (v) Social work specialist.
- 8 (vi) Social work specialist manager.
- 9 (vii) Welfare services specialist.

10 (2) The written report shall contain the name of the child and
11 a description of the abuse or neglect. If possible, the report
12 shall contain the names and addresses of the child's parents, the
13 child's guardian, the persons with whom the child resides, and the
14 child's age. The report shall contain other information available
15 to the reporting person that might establish the cause of the abuse
16 or neglect, and the manner in which the abuse or neglect occurred.

17 (3) The department shall inform the reporting person of the
18 required contents of the written report at the time the oral report
19 is made by the reporting person.

20 (4) The written report required in this section shall be
21 mailed or otherwise transmitted to the county department of the
22 county in which the child suspected of being abused or neglected is
23 found.

24 (5) Upon receipt of a written report of suspected child abuse
25 or neglect, the department may provide copies to the prosecuting
26 attorney and the probate court of the counties in which the child
27 suspected of being abused or neglected resides and is found.

1 (6) If an allegation, written report, or subsequent
2 investigation of suspected child abuse or child neglect indicates a
3 violation of sections 136b and 145c, sections 520b to 520g of the
4 Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, and
5 750.520b to 750.520g, or section 7401c of the public health code,
6 1978 PA 368, MCL 333.7401c, involving methamphetamine has occurred,
7 or if the allegation, written report, or subsequent investigation
8 indicates that the suspected child abuse or child neglect was
9 committed by an individual who is not a person responsible for the
10 child's health or welfare, including, but not limited to, a member
11 of the clergy, a teacher, or a teacher's aide, the department
12 shall, **WITHIN 24 HOURS OF RECEIPT**, transmit a copy of the
13 allegation or written report and the results of any investigation
14 to a law enforcement agency in the county in which the incident
15 occurred. If an allegation, written report, or subsequent
16 investigation indicates that the individual who committed the
17 suspected abuse or neglect is a child care provider and the
18 department believes that the report has basis in fact, the
19 department shall, **WITHIN 24 HOURS OF COMPLETION**, transmit a copy of
20 the written report or the results of the investigation to the child
21 care regulatory agency with authority over the child care
22 provider's child care organization or adult foster care location
23 authorized to care for a child.

24 (7) If a local law enforcement agency receives an allegation
25 or written report of suspected child abuse or child neglect or
26 discovers evidence of or receives a report of an individual
27 allowing a child to be exposed to or to have contact with

1 methamphetamine production, and the allegation, written report, or
2 subsequent investigation indicates that the child abuse or child
3 neglect or allowing a child to be exposed to or to have contact
4 with methamphetamine production, was committed by a person
5 responsible for the child's health or welfare, the local law
6 enforcement agency shall refer the allegation or provide a copy of
7 the written report and the results of any investigation to the
8 county department of the county in which the abused or neglected
9 child is found, as required by ~~subsection~~ **SUBSECTIONS (1)(a) AND**
10 **(10)**. If an allegation, written report, or subsequent investigation
11 indicates that the individual who committed the suspected abuse or
12 neglect or allowed a child to be exposed to or to have contact with
13 methamphetamine production, is a child care provider and the local
14 law enforcement agency believes that the report has basis in fact,
15 the local law enforcement agency shall transmit a copy of the
16 written report or the results of the investigation to the child
17 care regulatory agency with authority over the child care
18 provider's child care organization or adult foster care location
19 authorized to care for a child. Nothing in this subsection, ~~or~~
20 subsection (1), **OR SUBSECTION (10)** shall be construed to relieve
21 the department of its responsibilities to investigate reports of
22 suspected child abuse or child neglect under this act.

23 (8) For purposes of this act, the pregnancy of a child less
24 than 12 years of age or the presence of a venereal disease in a
25 child who is over 1 month of age but less than 12 years of age is
26 reasonable cause to suspect child abuse and neglect have occurred.

27 (9) In conducting an investigation of child abuse or child

1 neglect, if the department suspects that a child has been exposed
2 to or has had contact with methamphetamine production, the
3 department shall immediately contact the law enforcement agency in
4 the county in which the incident occurred.

5 (10) IF A LAW ENFORCEMENT AGENCY RECEIVES AN ALLEGATION OF
6 CHILD ABUSE OR NEGLECT THAT WOULD BE CLASSIFIED AS HIGH RISK UNDER
7 THIS ACT, THE LAW ENFORCEMENT AGENCY SHALL NOTIFY THE DEPARTMENT IN
8 WRITING WITHIN 24 HOURS OF RECEIVING THAT ALLEGATION.