

HOUSE BILL No. 5610

November 18, 2009, Introduced by Rep. Melton and referred to the Committee on Education.

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
9 child's legal advocate in the manner defined and described in

1 section 13a of chapter XIIIA of the probate code of 1939, 1939 PA
2 288, MCL 712A.13a.

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

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

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

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

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

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

25 (i) "Child care regulatory agency" means the department of
26 ~~consumer and industry services~~ or a successor state department that
27 is responsible for the licensing or registration of child care

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

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

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

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

14 **(iii) FAILURE TO ENSURE THE CHILD'S REGULAR ATTENDANCE AT SCHOOL**
15 **OR FAILURE TO ENSURE THAT THE CHILD'S ATTENDANCE COMPLIES WITH THE**
16 **DISTRICT'S OR SCHOOL'S ATTENDANCE POLICY UNLESS THE CHILD IS BEING**
17 **HOMESCHOOLED.**

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

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

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

27 (n) "CPSI system" means the child protective service

1 information system, which is an internal data system maintained
2 within and by the department, and which is separate from the
3 central registry and not subject to section 7.

4 (o) "Department" means the ~~family independence agency~~

5 **DEPARTMENT OF HUMAN SERVICES.**

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

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

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

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

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

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

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

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

24 (u) "Person responsible for the child's health or welfare"
25 means a parent, legal guardian, person 18 years of age or older who
26 resides for any length of time in the same home in which the child
27 resides, or, except when used in section 7(2)(e) or 8(8), nonparent

1 adult; or an owner, operator, volunteer, or employee of 1 or more
2 of the following:

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

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

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

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

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

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

24 (i) Except as provided in this subparagraph regarding a
25 perpetrator of child abuse or neglect, personal identification
26 information for any individual identified in a child protective
27 services record. The exclusion of personal identification

1 information as specified information prescribed by this
2 subparagraph does not include personal identification information
3 identifying an individual alleged to have perpetrated child abuse
4 or neglect, which allegation has been classified as a central
5 registry case.

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

8 (iii) Any other information that is specifically designated as
9 confidential under other law.

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

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

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

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