

HOUSE BILL No. 6165

June 12, 2018, Introduced by Reps. Greig, Sabo, Cochran, Chang, Lasinski, Guerra, Brinks, Geiss, Love, Green, Pagan, Yancey, Gay-Dagnogo, Wittenberg, Rabhi and Jones and referred to the Committee on Law and Justice.

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
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 XIIA 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 child 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 child neglect that the
12 department substantiated.

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

16 (f) "Child" means a person under 18 years of age.

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

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

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

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

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

10 (i) Negligent treatment, including the failure to provide
11 adequate food, clothing, shelter, or medical care, though
12 financially able to do so, or by the failure to seek financial or
13 other reasonable means to provide adequate food, clothing, shelter,
14 or medical care.

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

20 (l) "Children's advocacy center" means an entity accredited as
21 a child advocacy center by the National Children's Alliance or its
22 successor agency or an entity granted associate or developing
23 membership status by the National Children's Alliance or its
24 successor agency.

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

1 (n) "Member of the clergy" means a priest, minister, rabbi,
2 Christian science practitioner, or other religious practitioner, or
3 similar functionary of a church, temple, or recognized religious
4 body, denomination, or organization.

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

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

11 (q) "Department" means the department of health and human
12 services.

13 (r) "Director" means the director of the department.

14 (s) "Expunge" means to physically remove or eliminate and
15 destroy a record or report.

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

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

23 (v) "Nonparent adult" means a person who is 18 years of age or
24 older and who, regardless of the person's domicile, meets all of
25 the following criteria in relation to a child:

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

27 (ii) Has a close personal relationship with the child's parent

1 or with a person responsible for the child's health or welfare.

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

4 (w) "Online reporting system" means the electronic system
5 established by the department for individuals identified in section
6 3(1) to report suspected child abuse or child neglect.

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

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

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

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

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

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

25 (aa) "Sexual exploitation" includes allowing, permitting, or
26 encouraging a child to engage in ~~prostitution~~, **A COMMERCIAL SEX**
27 **ACT**, or allowing, permitting, encouraging, or engaging in the

1 photographing, filming, or depicting of a child engaged in a listed
2 sexual act as defined in section 145c of the Michigan penal code,
3 1931 PA 328, MCL 750.145c.

4 (bb) "Specified information" means information in a children's
5 protective services case record related specifically to the
6 department's actions in responding to a complaint of child abuse or
7 child neglect. Specified information does not include any of the
8 following:

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

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

20 (iii) Any other information that is specifically designated as
21 confidential under other law.

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

24 (cc) "Structured decision-making tool" means the department
25 document labeled "DSS-4752 (P3) (3-95)" or a revision of that
26 document that better measures the risk of future harm to a child.

27 (dd) "Substantiated" means a child protective services case

1 classified as a central registry case.

2 (ee) "Unsubstantiated" means a child protective services case
3 the department classifies under sections 8 and 8d as category III,
4 category IV, or category V.

5 Enacting section 1. This amendatory act takes effect 90 days
6 after the date it is enacted into law.

7 Enacting section 2. This amendatory act does not take effect
8 unless Senate Bill No. ____ or House Bill No. 6169 (request no.
9 02879'17) of the 99th Legislature is enacted into law.