

**SUBSTITUTE FOR
SENATE BILL NO. 371**

A bill to create the child abuse offenders database; to prescribe the powers and duties of certain departments and agencies in connection with that database; and to prescribe penalties and sanctions.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "child
2 abuse offenders database act".

3 Sec. 2. As used in this act:

4 (a) "Child abuse offense" means a violation of section
5 136b(2), (3)(a), (5)(a), or (7)(a) of the Michigan penal code, 1931
6 PA 328, MCL 750.136b, or a substantially similar offense under a
7 law of the United States, any state, or any country or under tribal
8 or military law, that is committed by an adult or by a minor who is

1 tried in the same manner as an adult under section 2d of chapter
2 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d.

3 (b) "Convicted" means any of the following:

4 (i) Having a judgment of conviction or a probation order
5 entered in any court having jurisdiction over criminal offenses,
6 including, but not limited to, a tribal court or a military court,
7 other than a conviction subsequently set aside under 1965 PA 213,
8 MCL 780.621 to 780.624.

9 (ii) Either of the following:

10 (A) Being assigned to youthful trainee status under sections
11 11 to 15 of chapter II of the code of criminal procedure, 1927 PA
12 175, MCL 762.11 to 762.15.

13 (B) Being assigned to youthful trainee status under sections
14 11 to 15 of chapter II of the code of criminal procedure, 1927 PA
15 175, MCL 762.11 to 762.15, if the individual's status of youthful
16 trainee is revoked and an adjudication of guilt is entered.

17 (iii) Having an order of disposition entered under section 18 of
18 chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18,
19 that is open to the general public under section 28 of chapter XIIIA
20 of the probate code of 1939, 1939 PA 288, MCL 712A.28.

21 (c) "Database" means the child abuse offender database created
22 under section 3.

23 (d) "Department" means the department of state police.

24 (e) "Local law enforcement agency" means the police department
25 of a municipality.

26 (f) "Minor" means an individual who is under 18 years of age.

27 (g) "Municipality" means a city, village, or township of this
28 state.

29 Sec. 3. (1) Subject to subsection (10), the department shall

1 maintain a computerized database of individuals convicted of child
2 abuse offenses in this state. The database must contain all of the
3 following information for each individual required to be in the
4 database created under that act:

5 (a) The individual's legal name and any aliases, nicknames,
6 ethnic or tribal names, or other names by which the individual is
7 or has been known.

8 (b) The individual's date of birth.

9 (c) The municipality in which the individual resides.

10 (d) A brief summary of the individual's convictions for child
11 abuse offenses regardless of when the conviction occurred.

12 (e) The text of the provision of law that defines the criminal
13 offense resulting in the individual's inclusion in the database.

14 (2) The department shall maintain a public internet website
15 that must contain all of the following information for each
16 individual required to be included in the child abuse offenders
17 database:

18 (a) The individual's legal name and any aliases, nicknames,
19 ethnic or tribal names, or other names by which the individual is
20 or has been known.

21 (b) The individual's date of birth.

22 (c) The municipality in which the individual resides.

23 (d) A brief summary of the individual's convictions for child
24 abuse offenses regardless of when the conviction occurred.

25 (e) The text of the provision of law that defines the criminal
26 offense resulting in the individual's inclusion in the database.

27 (3) The following information must not be made available on
28 the public internet website described in subsection (2):

29 (a) The identity of any victim of the offense.

1 (b) The individual's Social Security number.

2 (c) Any arrests not resulting in a conviction.

3 (d) Any travel or immigration document numbers.

4 (e) Any email addresses and instant message addresses assigned
5 to the individual or routinely used by the individual and any login
6 names or other identifiers used by the individual when using any
7 email address or instant messaging system.

8 (f) The individual's driver license number or state personal
9 identification card number.

10 (4) The compilation of individuals in the database and on the
11 public internet website must be indexed alphabetically by village,
12 city, township, and county, numerically by zip code area, and
13 geographically as determined appropriate by the department.

14 (5) The department shall update the public internet website
15 with new inclusions to the database, deletions from the database,
16 and address changes at the same time those changes are made to the
17 database described in subsection (1). The department shall make the
18 database available to each department post, local law enforcement
19 agency, and sheriff's department by the law enforcement information
20 network. Upon request of a department post, local law enforcement
21 agency, or sheriff's department, the department shall provide to
22 that post, agency, or sheriff's department the information from the
23 database in printed or electronic form for the designated areas
24 located in whole or in part within the post's, agency's, or
25 sheriff's department's jurisdiction. The department shall provide
26 the ability to conduct a computerized search of the database and
27 the public internet website based upon an individual's name.

28 (6) The department shall make the public internet website
29 available to the public by electronic, computerized, or other

1 similar means accessible to the public. The electronic,
2 computerized, or other similar means must provide for a search by
3 name, village, city, township, and county designation, zip code,
4 and geographical area.

5 (7) If a court determines that the public availability under
6 this section of any information concerning individuals included in
7 the child abuse offenders database violates the Constitution of the
8 United States or state constitution of 1963, the department shall
9 revise the public internet website described in subsection (2) so
10 that it does not contain that information.

11 (8) If the department determines that an individual is no
12 longer required to be included in the database, the department
13 shall remove the individual's information from both the database
14 and the public internet website within 7 days after making that
15 determination.

16 (9) An individual required to be included in the database must
17 remain on the database and the public internet website as follows:

18 (a) For a violation of section 136b(2), (3)(a), or (5)(a) of
19 the Michigan penal code, 1931 PA 328, MCL 750.136b, or a
20 substantially similar offense under a law of the United States, any
21 state, or any country or under tribal or military law, for 10
22 years.

23 (b) For a violation of section 136b(7)(a) of the Michigan
24 penal code, 1931 PA 328, MCL 750.136b, or a substantially similar
25 offense under a law of the United States, any state, or any country
26 or under tribal or military law, for 5 years.

27 (10) The database created under this act must only include
28 individuals convicted of a child abuse offense on or after the
29 effective date of this act.

1 Sec. 5. (1) A department post, local law enforcement agency,
2 or sheriff's department shall make information from the public
3 internet website described in section 3(2) for the designated areas
4 located in whole or in part within the post's, agency's, or
5 sheriff's department's jurisdiction available for public inspection
6 during regular business hours. A department post, local law
7 enforcement agency, or sheriff's department is not required to make
8 a copy of the information for a member of the public.

9 (2) The department shall make information from the public
10 internet website described in section 3(2) available to the public
11 through electronic, computerized, or other accessible means. The
12 department shall provide for notification by electronic or
13 computerized means to any member of the public who has subscribed
14 in a manner required by the department when an individual who is
15 the subject of the public internet website described in section
16 3(2) is initially included in the database, or changes his or her
17 information in the database, to a location that is in a designated
18 area or geographic radius designated by the subscribing member of
19 the public.

20 (3) Except as provided in this act, a person other than the
21 individual included in the database who knows of the individual's
22 inclusion in the database who divulges, uses, or publishes
23 nonpublic information concerning the individual's inclusion in the
24 database in violation of this act is guilty of a misdemeanor
25 punishable by imprisonment for not more than 93 days or a fine of
26 not more than \$1,000.00, or both.

27 (4) An individual whose inclusion in the database is revealed
28 in violation of this act has a civil cause of action against the
29 responsible party for treble damages.

1 (5) Subsections (3) and (4) do not apply to the public
2 internet website described in section 3(2) or information from that
3 public internet website that is provided or made available under
4 section 3(2) or under subsection (1) or (2).

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

7 Enacting section 2. This act must be known and may be cited as
8 "Wyatt's Law".