SENATE BILL NO. 547

October 03, 2023, Introduced by Senators IRWIN, MCBROOM, BELLINO, GEISS, SHINK, VICTORY, DALEY, OUTMAN, JOHNSON and LAUWERS and referred to the Committee on Housing and Human Services.

A bill to amend 1975 PA 238, entitled "Child protection law,"
by amending section 2 (MCL 722.622), as amended by 2022 PA 67.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 2. As used in this act:
(a) "Adult foster care location authorized to care for a child" means an adult foster care family home or adult foster care small group home as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703, in which a child is placed in accordance with section 5 of 1973 PA 116, MCL 722.115.
(b) "Attorney" means, if appointed to represent a child under the provisions referenced in section 10, an attorney serving as the child's legal advocate in the manner defined and described in section 13a of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.13a.

(c) "Central registry" means a repository of names of individuals who are identified as perpetrators related to a central registry case in the department's statewide electronic case management system.

(d) "Central registry case" means the department confirmed that a person responsible for the child's health or welfare committed serious abuse or neglect, sexual abuse, or sexual exploitation of a child, or allowed a child to be exposed to or have contact with methamphetamine production.

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

(f) "Child" means an individual under 18 years of age.

(g) "Child abuse" means harm or threatened harm to a child's health or welfare that occurs through nonaccidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment, by a parent, a legal guardian, any other person responsible for the child's health or welfare, a teacher, a teacher's aide, a member of the clergy, or an individual 18 years of age or older who is involved with a youth program.

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

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

(j) "Child care regulatory agency" means the department of licensing and regulatory affairs, the department's division of child welfare licensing, or a successor state department that is responsible for the licensing or registration of child care organizations or the licensing of adult foster care locations authorized to care for a child.

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

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

(ii) Placing a child at an unreasonable likelihood of serious risk to the child's health or welfare by failure—gross negligence of the parent, legal guardian, or other person responsible for the child's health or welfare to intervene to prevent, take sufficient precautions to adequately reduce, or eliminate that risk when that person is able to do so and has, or should have, knowledge of the serious risk. "Child neglect" does not include a child who engages in independent activities outside the supervision of a parent, guardian, other person responsible for the child's welfare except if the child lacks the minimum maturity, physical condition, or cognitive ability to safely manage the activity and the parent, guardian, or person responsible for the child's welfare disregarded the obvious and likely risks of harm from those activities. As used
in this subparagraph, "independent activities" includes, but is not limited to, traveling to or from school or a nearby location by bicycle or on foot, playing outdoors, or remaining at home or other location for a reasonable period of time.

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

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

(n) "Confirmed case" means the department has determined, by a preponderance of evidence, that child abuse or child neglect occurred by a person responsible for the child's health, welfare, or care.

(o) "Confirmed case of methamphetamine production" means a confirmed case that involved a child's exposure or contact with methamphetamine production.

(p) "Confirmed serious abuse or neglect" means a confirmed case of mental injury or physical injury or neglect to a child that involves any of the following:

(i) Battering, torture, or other serious physical harm.

(ii) Loss or serious impairment of an organ or limb.

(iii) Life-threatening injury.

(iv) Murder or attempted murder.

(v) Serious mental harm.

(q) "Confirmed sexual abuse" means a confirmed case that involves sexual penetration, sexual contact, attempted sexual
penetration, or assault with intent to penetrate as those terms are
defined in section 520a of the Michigan penal code, 1931 PA 328,
MCL 750.520a.

(r) "Confirmed sexual exploitation" means a confirmed case
that involves allowing, permitting, or encouraging a child to
engage in prostitution, or allowing, permitting, encouraging, or
engaging in the photographing, filming, or depicting of a child
engaged in a listed sexual act as that term is defined in section
145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

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

(t) "Department" means the department of health and human
services.

(u) "Director" means the director of the department.

(v) "Electronic case management system" means the child
protective service information system, that is an internal data
system maintained within and by the department.

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

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

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

(z) "Member of the clergy" means a priest, minister, rabbi,
Christian science practitioner, spiritual leader, or other
religious practitioner, or similar functionary of a church, temple,
spiritual community, or recognized religious body, denomination, or organization.

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

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

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

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

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

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

(i) A licensed or registered child care organization.

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

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

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

(ee) "Serious mental harm" and "serious physical harm" mean
those terms as defined in section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b.

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

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

(ii) Information in a police agency report or other law enforcement agency report as provided in section 7(3).

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

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

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

(hh) "Substantiated" means a confirmed case.

(ii) "Unsubstantiated" means a case that is not confirmed.