

SENATE BILL No. 36

January 18, 2017, Introduced by Senator JONES and referred to the Committee on Judiciary.

A bill to amend 1985 PA 176, entitled
"Child identification and protection act,"
by amending sections 2 and 4 (MCL 722.772 and 722.774).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Child" means any person under 17 years of age.

3 (b) "CHILD OR YOUTH WITH SPECIAL HEALTH CARE NEEDS" MEANS A
4 SINGLE OR MARRIED INDIVIDUAL UNDER 21 YEARS OF AGE WHOSE ACTIVITY
5 IS OR MAY BECOME SO RESTRICTED BY DISEASE OR SPECIFIED MEDICAL
6 CONDITION AS TO REDUCE THE INDIVIDUAL'S NORMAL CAPACITY FOR
7 EDUCATION AND SELF-SUPPORT.

8 (c) "DEPARTMENT" MEANS THE DEPARTMENT OF STATE POLICE.

9 (d) "DEPARTMENT-APPROVED ENTITY" MEANS AN ENTITY, INCLUDING A
10 LOCAL LAW ENFORCEMENT AGENCY OR A PRIVATE COMPANY, APPROVED BY THE
11 DEPARTMENT TO TAKE THE FINGERPRINTS AND PHOTOGRAPH OF A CHILD OR

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1 **YOUTH WITH SPECIAL HEALTH CARE NEEDS UNDER SECTION 4.**

2 (E) ~~(b)~~—"Governmental unit" means the state or any political
3 subdivision of the state, an authorized representative of the state
4 or any political subdivision of the state, any school district,
5 intermediate school district, or an authorized representative of
6 any school district or intermediate school district.

7 (F) "GUARDIAN" MEANS A PERSON WHO HAS QUALIFIED AS A GUARDIAN
8 OF A MINOR OR A CHILD OR YOUTH WITH SPECIAL HEALTH CARE NEEDS UNDER
9 A PARENTAL OR SPOUSAL NOMINATION OR A COURT ORDER ISSUED UNDER
10 SECTION 19A OR 19C OF CHAPTER XIIIA OF THE PROBATE CODE OF 1939, MCL
11 712A.19A AND 712A.19C, SECTION 5204, 5205, OR 5306 OF THE ESTATES
12 AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.5204,
13 700.5205, AND 700.5306, OR SECTIONS 600 TO 644 OF THE MENTAL HEALTH
14 CODE, 1974 PA 258, MCL 330.1600 TO 330.1644. GUARDIAN MAY ALSO
15 INCLUDE A PERSON APPOINTED BY A TRIBAL COURT UNDER TRIBAL CODE OR
16 CUSTOM. GUARDIAN DOES NOT INCLUDE A GUARDIAN AD LITEM.

17 Sec. 4. (1) ~~A—THE FOLLOWING CONDITIONS GOVERN A governmental~~
18 ~~unit may~~ **UNIT'S AUTHORITY TO** fingerprint a child: ~~if 1 or more of~~
19 ~~the following apply:~~

20 (a) A **GOVERNMENTAL UNIT MAY FINGERPRINT A CHILD IF A** parent or
21 guardian has given written authorization for the taking of the
22 fingerprints for use in the future ~~in case~~ **IF** the child becomes a
23 runaway or a missing child. Only 1 set of prints shall be taken and
24 the fingerprint cards shall be given to the parent or guardian for
25 safekeeping. The fingerprints, written authorizations for
26 fingerprinting, or notice of their existence shall not be recorded,
27 stored, or kept in any manner by a police agency, except as

1 provided in this subdivision or except at the request of the parent
2 or guardian if the child becomes a runaway or a missing child. ~~When~~
3 **IF** the child is located or the case is otherwise disposed of, the
4 fingerprint cards shall be returned to the parents or guardian.

5 ~~(b) Fingerprints are required to be taken pursuant to A~~
6 **GOVERNMENTAL UNIT SHALL FINGERPRINT A CHILD IF REQUIRED UNDER**
7 section 3 of ~~Act No. 289 of the Public Acts of 1925, being section~~
8 **1925 PA 289, MCL 28.243, of the Michigan Compiled Laws, section 1
9 of ~~Act No. 120 of the Public Acts of 1935, being section 1935 PA~~
10 **120, MCL 28.271, of the Michigan Compiled Laws, or section 724 of
11 ~~Act No. 258 of the Public Acts of 1974, being section~~ **THE MENTAL**
12 **HEALTH CODE, 1974 PA 258, MCL 330.1724.** ~~of the Michigan Compiled~~
13 ~~Laws.~~****

14 ~~(c) Fingerprints are~~ **A GOVERNMENTAL UNIT SHALL FINGERPRINT A**
15 **CHILD IF FINGERPRINTING IS** required by court order.

16 ~~(d) Fingerprints~~ **A GOVERNMENTAL UNIT MAY FINGERPRINT A CHILD**
17 **IF FINGERPRINTS** are voluntarily given with the written permission
18 of the child and parent or guardian, upon request of a law
19 enforcement officer, to aid in a specific criminal investigation.
20 Only 1 set of prints shall be taken and, upon completion of the
21 investigation, the law enforcement agency shall return the
22 fingerprint cards to the parent or guardian of the child.

23 **(2) A PARENT OR GUARDIAN OF A CHILD OR YOUTH WITH SPECIAL**
24 **HEALTH CARE NEEDS MAY SUBMIT A WRITTEN REQUEST TO A DEPARTMENT-**
25 **APPROVED ENTITY TO TAKE THE FINGERPRINTS AND PHOTOGRAPH OF THE**
26 **CHILD OR YOUTH WITH SPECIAL HEALTH CARE NEEDS AND ADD THEM TO THE**
27 **AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM (AFIS) DATABASE AND THE**

1 STATEWIDE NETWORK OF AGENCY PHOTOS MAINTAINED BY THE DEPARTMENT. AS
2 USED IN THIS SUBSECTION AND SUBSECTIONS (5), (6), AND (8), "PARENT"
3 MEANS THE NATURAL OR ADOPTIVE PARENT OF A CHILD OR YOUTH WITH
4 SPECIAL HEALTH CARE NEEDS WHO HAS EITHER OR BOTH SOLE OR JOINT
5 LEGAL OR PHYSICAL CUSTODY OF THE CHILD IF A COURT ORDER DICTATING
6 CUSTODY IS IN PLACE, OR THE NATURAL OR ADOPTIVE PARENT OF A CHILD
7 OR YOUTH WITH SPECIAL HEALTH CARE NEEDS IF THERE IS NO COURT ORDER
8 DICTATING CUSTODY IN PLACE.

9 (3) A WRITTEN REQUEST MADE UNDER SUBSECTION (2) SHALL BE MADE
10 ON A FORM POSTED ON THE DEPARTMENT'S WEBSITE. ALONG WITH THE FORM,
11 THE DEPARTMENT SHALL PROVIDE A LIST OF DEPARTMENT-APPROVED ENTITIES
12 ON THE DEPARTMENT'S WEBSITE.

13 (4) THE DEPARTMENT MAY CHARGE A FEE SUFFICIENT TO REIMBURSE
14 THE DEPARTMENT FOR THE COSTS ASSOCIATED WITH PROCESSING A REQUEST
15 UNDER SUBSECTION (2).

16 (5) AT THE TIME A CHILD OR YOUTH WITH SPECIAL HEALTH CARE
17 NEEDS IS PRESENTED AT A DEPARTMENT-APPROVED ENTITY TO HAVE HIS OR
18 HER FINGERPRINTS AND PHOTOGRAPH TAKEN, THE DEPARTMENT-APPROVED
19 ENTITY TAKING THE FINGERPRINTS AND PHOTOGRAPH SHALL REQUIRE THE
20 PARENT OR GUARDIAN PRESENTING THE CHILD OR YOUTH WITH SPECIAL
21 HEALTH CARE NEEDS TO EXECUTE A SIGNED WAIVER ALLOWING THE CHILD'S
22 FINGERPRINTS AND DIGITAL IMAGE TO BE COLLECTED.

23 (6) AT THE TIME A CHILD OR YOUTH WITH SPECIAL HEALTH CARE
24 NEEDS IS PRESENTED AT A DEPARTMENT-APPROVED ENTITY TO HAVE HIS OR
25 HER FINGERPRINTS AND PHOTOGRAPH TAKEN, THE DEPARTMENT-APPROVED
26 ENTITY TAKING FINGERPRINTS AND PHOTOGRAPH SHALL REQUIRE THE PARENT
27 OR GUARDIAN PRESENTING THE CHILD OR YOUTH WITH SPECIAL HEALTH CARE

1 NEEDS TO REMIT THE FEE DESCRIBED IN SUBSECTION (4). THE DEPARTMENT-
2 APPROVED ENTITY SHALL FORWARD THE FEE COLLECTED UNDER THIS
3 SUBSECTION TO THE DEPARTMENT IN THE MANNER THE DEPARTMENT
4 PRESCRIBES.

5 (7) THE DEPARTMENT SHALL FORWARD THE FINGERPRINTS AND
6 PHOTOGRAPHS TAKEN UNDER THIS SECTION TO THE DIRECTOR OF THE FEDERAL
7 BUREAU OF INVESTIGATION ON FORMS FURNISHED BY OR IN A MANNER
8 PRESCRIBED BY THE DIRECTOR FOR REGISTRATION, STORAGE, AND USE FOR
9 IDENTIFICATION PURPOSES BY THE FEDERAL BUREAU OF INVESTIGATION.

10 (8) A PARENT OR GUARDIAN MAY MAKE A WRITTEN REQUEST TO THE
11 DEPARTMENT TO HAVE THE FINGERPRINTS AND PHOTOGRAPH OF A CHILD OR
12 YOUTH WITH SPECIAL HEALTH CARE NEEDS TAKEN UNDER THIS SECTION
13 REMOVED FROM THE AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM (AFIS)
14 DATABASE AND THE STATEWIDE NETWORK OF AGENCY PHOTOS. THE DEPARTMENT
15 SHALL REMOVE THE FINGERPRINTS AND PHOTOGRAPH OF A CHILD OR YOUTH
16 WITH SPECIAL HEALTH CARE NEEDS TAKEN UNDER THIS SECTION FROM THE
17 AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM (AFIS) DATABASE AND THE
18 STATEWIDE NETWORK OF AGENCY PHOTOS UPON RECEIPT OF A WRITTEN
19 REQUEST MADE BY A PARENT OR GUARDIAN UNDER THIS SUBSECTION.

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