

HOUSE BILL NO. 5851

June 25, 2024, Introduced by Reps. Edwards, Breen, Brenda Carter, Hope, Rheingans, Koleszar, Weiss, Hill, Glanville, Conlin, Mentzer, Steckloff, Xiong, Pohutsky, Fitzgerald, Byrnes, Rogers, McFall, Witwer and Coffia and referred to the Committee on Judiciary.

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:

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 **those terms are** defined in section 3 of the
5 adult foster care facility licensing act, 1979 PA 218, MCL 400.703,
6 in which a child is placed in accordance with section 5 of 1973 PA

1 116, MCL 722.115.

2 (b) "Attorney" means, if appointed to represent a child under
3 the provisions referenced in section 10, an attorney serving as the
4 child's legal advocate in the manner defined and described in
5 section 13a of chapter XIIA of the probate code of 1939, 1939 PA
6 288, MCL 712A.13a.

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

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

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

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

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

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

29 (i) "Child care provider" means an owner, operator, employee,

1 or volunteer of a child care organization or of an adult foster
2 care location authorized to care for a child.

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

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

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

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

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

28 (m) "Citizen review panel" means a panel established as
29 required by section 5106a of the child abuse prevention and

1 treatment act, 42 USC 5106a.

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

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

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

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

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

14 (iii) Life-threatening injury.

15 (iv) Murder or attempted murder.

16 (v) Serious mental harm.

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

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

29 (s) "Controlled substance" means that term as defined in

1 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (ii) A licensed or unlicensed adult foster care family home or
12 adult foster care small group home as **those terms are** defined in
13 section 3 of the adult foster care facility licensing act, 1979 PA
14 218, MCL 400.703.

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

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

20 (ee) "Serious mental harm" and "serious physical harm" mean
21 those terms as defined in section 136b of the Michigan penal code,
22 1931 PA 328, MCL 750.136b.

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

28 (i) Except as provided in this subparagraph regarding a
29 perpetrator of child abuse or child neglect, personal

1 identification information for any individual identified in a child
2 protective services record. The exclusion of personal
3 identification information as specified information prescribed by
4 this subparagraph does not include personal identification
5 information identifying an individual alleged to have perpetrated
6 child abuse or child neglect, which allegation has been classified
7 as a central registry case.

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

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

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

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

17 (hh) "Substantiated" means a confirmed case.

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

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

21 Enacting section 2. This amendatory act does not take effect
22 unless Senate Bill No. ____ or House Bill No. 5841 (request no.
23 04081'23) of the 102nd Legislature is enacted into law.