

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5276**

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending sections 3, 5, 7d, 7e, 7g, 8b, 8d, 9a, and 18 (MCL
722.623, 722.625, 722.627d, 722.627e, 722.627g, 722.628b, 722.628d,
722.629a, and 722.638), section 3 as amended by 2016 PA 35, section
5 as amended by 2004 PA 563, sections 7d, 7e, 7g, and 9a as added
by 1998 PA 428, section 8b as amended by 2006 PA 263, section 8d as
amended by 2014 PA 30, and section 18 as amended by 2018 PA 59.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) An individual is required to report under this act
2 as follows:

3 (a) A physician, dentist, physician's assistant, registered
4 dental hygienist, medical examiner, nurse, person licensed to



1 provide emergency medical care, audiologist, psychologist, marriage
2 and family therapist, licensed professional counselor, social
3 worker, licensed master's social worker, licensed bachelor's social
4 worker, registered social service technician, social service
5 technician, a person employed in a professional capacity in any
6 office of the friend of the court, school administrator, school
7 counselor or teacher, law enforcement officer, member of the
8 clergy, or regulated child care provider who has reasonable cause
9 to suspect child abuse or child neglect ~~shall~~**must** make an
10 immediate report to centralized intake by telephone, or, if
11 available, through the online reporting system, of the suspected
12 child abuse or child neglect. Within 72 hours after making an oral
13 report by telephone to centralized intake, the reporting person
14 ~~shall~~**must** file a written report as required in this act. If the
15 immediate report has been made using the online reporting system
16 and that report includes the information required in a written
17 report under subsection (2), that report is considered a written
18 report for the purposes of this section and no additional written
19 report is required. If the reporting person is a member of the
20 staff of a hospital, agency, or school, the reporting person ~~shall~~
21 **must** notify the person in charge of the hospital, agency, or school
22 of his or her finding and that the report has been made, and ~~shall~~
23 **must** make a copy of the written or electronic report available to
24 the person in charge. A notification to the person in charge of a
25 hospital, agency, or school does not relieve the member of the
26 staff of the hospital, agency, or school of the obligation of
27 reporting to the department as required by this section. One report
28 from a hospital, agency, or school is adequate to meet the
29 reporting requirement. A member of the staff of a hospital, agency,



1 or school shall not be dismissed or otherwise penalized for making
2 a report required by this act or for cooperating in an
3 investigation.

4 (b) A department employee who is 1 of the following and has
5 reasonable cause to suspect child abuse or child neglect shall make
6 a report of suspected child abuse or child neglect to the
7 department in the same manner as required under subdivision (a):

8 (i) Eligibility specialist.

9 (ii) Family independence manager.

10 (iii) Family independence specialist.

11 (iv) Social services specialist.

12 (v) Social work specialist.

13 (vi) Social work specialist manager.

14 (vii) Welfare services specialist.

15 (c) Any employee of an organization or entity that, as a
16 result of federal funding statutes, regulations, or contracts,
17 would be prohibited from reporting in the absence of a state
18 mandate or court order. A person required to report under this
19 subdivision shall report in the same manner as required under
20 subdivision (a).

21 (2) The written report or a report made using the online
22 reporting system ~~shall~~**must** contain the name of the child and a
23 description of the child abuse or child neglect. If possible, the
24 report shall contain the names and addresses of the child's
25 parents, the child's guardian, the persons with whom the child
26 resides, and the child's age. The report shall contain other
27 information available to the reporting person that might establish
28 the cause of the child abuse or child neglect, and the manner in
29 which the child abuse or child neglect occurred.



1 (3) The department shall inform the reporting person of the
2 required contents of the written report at the time the oral report
3 is made by the reporting person.

4 (4) The written report required in this section ~~shall~~**must** be
5 mailed or otherwise transmitted to centralized intake.

6 (5) Upon receipt of a written report of suspected child abuse
7 or child neglect, the department may provide copies to the
8 prosecuting attorney and the probate court of the counties in which
9 the child suspected of being abused or neglected resides and is
10 found.

11 (6) If an allegation, written report, or subsequent
12 investigation of suspected child abuse or child neglect indicates a
13 violation of ~~sections~~**section** 136b, 145c, 462a to 462h, or 520b to
14 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b,
15 750.145c, 750.462a to 750.462h, and 750.520b to 750.520g, or
16 section 7401c of the public health code, 1978 PA 368, MCL
17 333.7401c, involving methamphetamine has occurred, or if the
18 allegation, written report, or subsequent investigation indicates
19 that the suspected child abuse or child neglect was committed by an
20 individual who is not a person responsible for the child's health
21 or welfare, including, but not limited to, a member of the clergy,
22 a teacher, ~~or~~a teacher's aide, **or an individual 18 years of age or**
23 **older who is involved in a youth program**, the department ~~shall~~**must**
24 transmit a copy of the allegation or written report and the results
25 of any investigation to a law enforcement agency in the county in
26 which the incident occurred. If an allegation, written report, or
27 subsequent investigation indicates that the individual who
28 committed the suspected child abuse or child neglect is a child
29 care provider and the department believes that the report has basis



1 in fact, the department shall, within 24 hours ~~of~~**after** completion,
 2 transmit a copy of the written report or the results of the
 3 investigation to the child care regulatory agency with authority
 4 over the child care provider's child care organization or adult
 5 foster care location authorized to care for a child.

6 (7) If a local law enforcement agency receives an allegation
 7 or written report of suspected child abuse or child neglect or
 8 discovers evidence of or receives a report of an individual
 9 allowing a child to be exposed to or to have contact with
 10 methamphetamine production, and the allegation, written report, or
 11 subsequent investigation indicates that the child abuse or child
 12 neglect or allowing a child to be exposed to or to have contact
 13 with methamphetamine production, was committed by a person
 14 responsible for the child's health or welfare, the local law
 15 enforcement agency shall refer the allegation or provide a copy of
 16 the written report and the results of any investigation to the
 17 county department of the county in which the abused or neglected
 18 child is found, as required by subsection (1)(a). If an allegation,
 19 written report, or subsequent investigation indicates that the
 20 individual who committed the suspected child abuse or child neglect
 21 or allowed a child to be exposed to or to have contact with
 22 methamphetamine production, is a child care provider and the local
 23 law enforcement agency believes that the report has basis in fact,
 24 the local law enforcement agency shall transmit a copy of the
 25 written report or the results of the investigation to the child
 26 care regulatory agency with authority over the child care
 27 provider's child care organization or adult foster care location
 28 authorized to care for a child. ~~Nothing in~~**Neither** this subsection
 29 ~~or~~**nor** subsection (1) relieves the department of its



1 responsibilities to investigate reports of suspected child abuse or
2 child neglect under this act.

3 (8) For purposes of this act, the pregnancy of a child less
4 than 12 years of age or the presence of a sexually transmitted
5 infection in a child who is over 1 month of age but less than 12
6 years of age is reasonable cause to suspect child abuse or child
7 neglect has occurred.

8 (9) In conducting an investigation of child abuse or child
9 neglect, if the department suspects that a child has been exposed
10 to or has had contact with methamphetamine production, the
11 department shall immediately contact the law enforcement agency in
12 the county in which the incident occurred.

13 Sec. 5. Except for records available under section ~~7(2)(a),~~
14 ~~(b), and (n),~~ **7(1)(a), (b), and (n)**, the identity of a reporting
15 person is confidential subject to disclosure only with the consent
16 of that person or by judicial process. A person acting in good
17 faith who makes a report, cooperates in an investigation, or
18 assists in any other requirement of this act is immune from civil
19 or criminal liability that might otherwise be incurred by that
20 action. A person making a report or assisting in any other
21 requirement of this act is presumed to have acted in good faith.
22 This immunity from civil or criminal liability extends only to acts
23 done according to this act and does not extend to a negligent act
24 that causes personal injury or death or to the malpractice of a
25 physician that results in personal injury or death.

26 Sec. 7d. (1) Subject to sections 7c to 7i, at the director's
27 initiative or upon written request, the director may release
28 specified information. If a written request for specified
29 information is submitted to the department, the director ~~shall~~**must**



1 make a preliminary decision to release or to deny release of the
2 specified information within 14 days after receipt of the request.
3 After notifying the requester, the director may extend that time
4 period for an additional 14 days if the additional time is
5 necessary to research and compile the requested specified
6 information.

7 (2) The director may release specified information under this
8 section if there is clear and convincing evidence that either of
9 the following is true:

10 (a) The release of the specified information is in the best
11 interest of the child to whom the specified information relates.

12 (b) The release of the specified information is not in
13 conflict with the best interest of the child to whom the specified
14 information relates, and 1 or more of the following are true:

15 (i) The release is in the best interest of a member of the
16 child's family or of an individual who resides in the same home in
17 which the child resides. For the purposes of this subparagraph, the
18 child's family includes the child's parents, legal guardians,
19 grandparents, and siblings.

20 (ii) The release clarifies actions taken by the department on a
21 specific case.

22 (iii) The report or record containing the specified information
23 concerns a child who has died or concerns a member of that child's
24 family.

25 (iv) All or part of the report or record containing the
26 specified information is publicly disclosed in a judicial
27 proceeding.

28 (v) A child abuse or **child** neglect complaint or investigation
29 to which the report or record containing the specified information



1 relates has been part of the subject matter of a published or
2 broadcast media story.

3 (vi) The report or record containing the specified information
4 concerns a ~~substantiated~~**confirmed** report of sexual abuse, serious
5 injury, or life threatening harm involving the child or a sibling
6 of the child identified in the request.

7 Sec. 7e. (1) The director shall not deny a request for
8 specified information under section 7d based upon a desire to
9 shield a lack of or an inappropriate performance by the department.

10 (2) Regardless of the director's determination that specified
11 information may be released under section 7d, the director shall
12 not release the specified information if 1 or more of the following
13 are true:

14 (a) The request for release does not include information
15 sufficient to identify the specific case to which the request
16 relates.

17 (b) An investigation of the report of child abuse or **child**
18 neglect to which the specified information relates is in progress
19 and the report has not been ~~substantiated or~~
20 ~~unsubstantiated.~~**confirmed or not confirmed.**

21 (c) A hearing is pending under section ~~7(6)~~**7j(6)**.

22 (d) There is an ongoing criminal investigation and, as
23 determined by the local prosecuting attorney, release would
24 interfere with the criminal investigation.

25 (e) The individual who submits the request is serving a
26 sentence of imprisonment in a state, county, or federal
27 correctional facility in this state or in another state.

28 (f) The child to whom the report or record relates is 18 years
29 of age or older.



1 Sec. 7g. (1) If the director decides to release specified
2 information under section 7d, the department ~~shall~~**must** give each
3 notice required under section 7f to each of the following:

4 (a) Each ~~individual~~**person** named in the report as a
5 perpetrator or an alleged perpetrator of the ~~child's~~**child** abuse or
6 **child** neglect, unless the ~~individual~~**person** named in the report has
7 been convicted of a crime relating to the **child** abuse or **child**
8 neglect, and no appeal is pending.

9 (b) Each parent or legal guardian of the child.

10 (c) Each attorney representing the child who is the subject of
11 the case, or representing ~~an individual~~**a person** listed in
12 subdivision (a) or (b), if the department has notice of that
13 representation.

14 (d) The child's guardian ad litem.

15 (2) If the director denies a request for release of
16 information under section 7d, the department ~~shall~~**must** notify only
17 the requesting person.

18 (3) If ~~an individual~~**a person** required to be notified under
19 subsection (1)(a) is named as a perpetrator of child abuse or **child**
20 neglect in a report that contains specified information requested
21 to be released, and that ~~individual~~**person** was not previously
22 notified under section 7(4), ~~7j(3)~~, the department ~~shall~~**must**
23 notify that ~~individual~~**person** as required by section 7(4) ~~7j(3)~~ not
24 less than 14 days before the specified information is released. If
25 ~~an individual~~**a person** who is required to be notified under this
26 subsection requests expunction of the record within 14 days after
27 the notice is given, the specified information shall not be
28 released under this section until the procedures governing
29 expunction under section 7 ~~7j~~ are completed. If ~~an individual~~**a**



1 **person** who is required to be notified under this subsection does
 2 not request expunction within 14 days, the procedures for release
 3 of specified information under sections 7c to 7i ~~shall~~**must** be
 4 followed, and the individual does not have a right to appeal the
 5 decision to release.

6 **(4) This section may be cited as "Wyatt's law".**

7 Sec. 8b. (1) If a ~~central registry~~ case involves a child's
 8 death, serious physical ~~injury~~**harm** of a child, or sexual abuse or
 9 **sexual** exploitation of a child, the department ~~shall~~**must** refer the
 10 case to the prosecuting attorney for the county in which the child
 11 is located. The prosecuting attorney ~~shall~~**must** review the
 12 investigation of the case to determine if the investigation
 13 complied with the protocol adopted as required by section 8.

14 (2) If a central registry case involves a child's exposure to
 15 or contact with methamphetamine production, the department ~~shall~~
 16 **must** refer the case to the prosecuting attorney for the county in
 17 which the child is located. The prosecuting attorney ~~shall~~**must**
 18 review the investigation of the case to determine whether the
 19 investigation complied with the protocol adopted as required by
 20 section 8.

21 Sec. 8d. (1) For the department's determination required by
 22 section 8, the categories, and the departmental response required
 23 for each category, are the following:

24 (a) Category V - services not needed. Following a field
 25 investigation, the department determines that there is no evidence
 26 of child abuse or child neglect.

27 (b) Category IV - community services recommended. Following a
 28 field investigation, the department determines that there is not a
 29 preponderance of evidence of child abuse or child neglect, but the



1 structured decision-making tool indicates that there is future risk
2 of harm to the child. The department ~~shall~~**must** assist the child's
3 family in voluntarily participating in community-based services
4 commensurate with the risk to the child.

5 (c) Category III - community services needed. The department
6 determines that there is a preponderance of evidence of child abuse
7 or child neglect, and the structured decision-making tool indicates
8 a low or moderate risk of future harm to the child. The department
9 ~~shall~~**must** assist the child's family in receiving community-based
10 services commensurate with the risk to the child. If the family
11 does not voluntarily participate in services, or the family
12 voluntarily participates in services, but does not progress toward
13 alleviating the child's risk level, the department ~~shall~~**must**
14 consider reclassifying the case as category II.

15 (d) Category II - child protective services required. The
16 department determines that there is evidence of child abuse or
17 child neglect, and the structured decision-making tool indicates a
18 high or intensive risk of future harm to the child. The department
19 ~~shall~~**must** open a protective services case and provide the services
20 necessary under this act. ~~The department shall also list the~~
21 ~~perpetrator of the child abuse or child neglect, based on the~~
22 ~~report that was the subject of the field investigation, on the~~
23 ~~central registry as provided in section 7(7), either by name or as~~
24 ~~"unknown" if the perpetrator has not been identified.~~

25 (e) Category I - court petition required. The department
26 determines that there is evidence of child abuse or child neglect
27 and 1 or more of the following are true:

28 (i) A court petition is required under another provision of
29 this act.



1 (ii) The child is not safe and a petition for removal is
2 needed.

3 (iii) The department previously classified the case as category
4 II and the child's family does not voluntarily participate in
5 services.

6 (iv) There is a violation, involving the child, of a crime
7 listed or described in section 8a(1)(b), (c), (d), or (f) or of
8 child abuse in the first or second degree as prescribed by section
9 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b.

10 (2) In response to a category I classification, the department
11 ~~shall do all~~ **must do both** of the following:

12 (a) If a court petition is not required under another
13 provision of this act, submit a petition for authorization by the
14 court under section 2(b) of chapter XIIIA of the probate code of
15 1939, 1939 PA 288, MCL 712A.2.

16 (b) Open a protective services case and provide the services
17 necessary under this act.

18 ~~(c) List the perpetrator of the child abuse or child neglect,~~
19 ~~based on the report that was the subject of the field~~
20 ~~investigation, on the central registry as provided in section 7(7),~~
21 ~~either by name or as "unknown" if the perpetrator has not been~~
22 ~~identified.~~

23 ~~(3) The department is not required to use the structured~~
24 ~~decision-making tool for a nonparent adult who resides outside the~~
25 ~~child's home who is the victim or alleged victim of child abuse or~~
26 ~~child neglect or for an owner, operator, volunteer, or employee of~~
27 ~~a licensed or registered child care organization or a licensed or~~
28 ~~unlicensed adult foster care family home or adult foster care small~~
29 ~~group home as those terms are defined in section 3 of the adult~~



1 ~~foster care facility licensing act, 1979 PA 218, MCL 400.703.~~

2 ~~(4) If following a field investigation the department~~
 3 ~~determines that there is a preponderance of evidence that an~~
 4 ~~individual listed in subsection (3) was the perpetrator of child~~
 5 ~~abuse or child neglect, the department shall list the perpetrator~~
 6 ~~of the child abuse or child neglect on the central registry as~~
 7 ~~provided in section 7(7).~~

8 Sec. 9a. The agency within the department that is responsible
 9 for administering and providing services under this act ~~shall~~**must**
 10 make an annual comprehensive report to the legislature that
 11 includes at least all of the following:

12 (a) Statistical information including at least all of the
 13 following:

14 (i) Total reports of abuse and neglect investigated under this
 15 act and the number that were ~~substantiated and~~
 16 ~~unsubstantiated.~~**confirmed and not confirmed.**

17 (ii) Characteristics of perpetrators of **child** abuse and **child**
 18 neglect and the child victims such as age, sex, relationship,
 19 socioeconomic status, race, and ethnicity.

20 (iii) The occupation or description listed under section 3 in
 21 which the individual who made the report fits, or other description
 22 if the individual is not within a group required to report under
 23 this act.

24 (iv) Statistics relating to the central registry such as number
 25 of individuals and their characteristics.

26 (v) Statistics relating to the basis for determining that
 27 reported cases of **child** abuse or **child** neglect are
 28 ~~unsubstantiated.~~**not confirmed.**

29 (b) Policy related to child protective services including, but



1 not limited to, major policy changes and court decisions affecting
2 the administration of this act.

3 Sec. 18. (1) The department shall submit a petition for
4 authorization by the court under section 2(b) of chapter XIIIA of
5 1939 PA 288, MCL 712A.2, if 1 or more of the following apply:

6 (a) The department determines that a parent, guardian, or
7 custodian, or a person who is 18 years of age or older and who
8 resides for any length of time in the child's home, has abused the
9 child or a sibling of the child and the abuse included 1 or more of
10 the following:

11 (i) Abandonment of a young child.

12 (ii) Criminal sexual conduct involving penetration, attempted
13 penetration, or assault with intent to penetrate.

14 (iii) Battering, torture, or other ~~severe physical abuse.~~ **serious**
15 **physical harm.**

16 (iv) Loss or serious impairment of an organ or limb.

17 (v) Life threatening injury.

18 (vi) Murder or attempted murder.

19 (b) The department determines that there is risk of harm,
20 child abuse, or child neglect to the child and either of the
21 following is true:

22 (i) The parent's rights to another child were terminated as a
23 result of proceedings under section 2(b) of chapter XIIIA of 1939 PA
24 288, MCL 712A.2, or a similar law of another state and the parent
25 has failed to rectify the conditions that led to the prior
26 termination of parental rights.

27 (ii) The parent's rights to another child were voluntarily
28 terminated following the initiation of proceedings under section
29 2(b) of chapter XIIIA of 1939 PA 288, MCL 712A.2, or a similar law



1 of another state, the parent has failed to rectify the conditions
2 that led to the prior termination of parental rights, and the
3 proceeding involved abuse that included 1 or more of the following:

4 (A) Abandonment of a young child.

5 (B) Criminal sexual conduct involving penetration, attempted
6 penetration, or assault with intent to penetrate.

7 (C) Battering, torture, or other ~~severe physical abuse~~. **serious**
8 **physical harm.**

9 (D) Loss or serious impairment of an organ or limb.

10 (E) Life-threatening injury.

11 (F) Murder or attempted murder.

12 (G) Voluntary manslaughter.

13 (H) Aiding and abetting, attempting to commit, conspiring to
14 commit, or soliciting murder or voluntary manslaughter.

15 (2) In a petition submitted as required by subsection (1), if
16 a parent is a suspected perpetrator or is suspected of placing the
17 child at an unreasonable risk of harm due to the parent's failure
18 to take reasonable steps to intervene to eliminate that risk, the
19 department shall include a request for termination of parental
20 rights at the initial dispositional hearing as authorized under
21 section 19b of chapter XIIIA of 1939 PA 288, MCL 712A.19b.

22 (3) If the department is considering petitioning for
23 termination of parental rights at the initial dispositional hearing
24 as authorized under section 19b of chapter XIIIA of 1939 PA 288, MCL
25 712A.19b, even though the facts of the child's case do not require
26 departmental action under subsection (1), the department shall hold
27 a conference among the appropriate agency personnel to agree upon
28 the course of action. The department shall notify the attorney
29 representing the child of the time and place of the conference, and



1 the attorney may attend. If an agreement is not reached at this
2 conference, the department director or the director's designee
3 shall resolve the disagreement after consulting the attorneys
4 representing both the department and the child.

5 Enacting section 1. This amendatory act takes effect 180 days
6 after the date it is enacted into law.

7 Enacting section 2. This amendatory act does not take effect
8 unless all of the following bills of the 101st Legislature are
9 enacted into law:

- 10 (a) House Bill No. 5274.
11 (b) House Bill No. 5275.
12 (c) House Bill No. 5277.
13 (d) House Bill No. 5278.

