

**SUBSTITUTE FOR
HOUSE BILL NO. 5276**

A bill to amend 1975 PA 238, entitled "Child protection law," by amending sections 5, 7d, 7e, 7g, 8b, 8d, 9a, and 18 (MCL 722.625, 722.627d, 722.627e, 722.627g, 722.628b, 722.628d, 722.629a, and 722.638), 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. 5. Except for records available under section ~~7(2)(a),~~
2 ~~(b), and (n),~~ **7(1)(a), (b), and (n)**, the identity of a reporting
3 person is confidential subject to disclosure only with the consent
4 of that person or by judicial process. A person acting in good

1 faith who makes a report, cooperates in an investigation, or
2 assists in any other requirement of this act is immune from civil
3 or criminal liability that might otherwise be incurred by that
4 action. A person making a report or assisting in any other
5 requirement of this act is presumed to have acted in good faith.
6 This immunity from civil or criminal liability extends only to acts
7 done according to this act and does not extend to a negligent act
8 that causes personal injury or death or to the malpractice of a
9 physician that results in personal injury or death.

10 Sec. 7d. (1) Subject to sections 7c to 7i, at the director's
11 initiative or upon written request, the director may release
12 specified information. If a written request for specified
13 information is submitted to the department, the director ~~shall~~**must**
14 make a preliminary decision to release or to deny release of the
15 specified information within 14 days after receipt of the request.
16 After notifying the requester, the director may extend that time
17 period for an additional 14 days if the additional time is
18 necessary to research and compile the requested specified
19 information.

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

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

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

28 (i) The release is in the best interest of a member of the
29 child's family or of an individual who resides in the same home in

1 which the child resides. For the purposes of this subparagraph, the
2 child's family includes the child's parents, legal guardians,
3 grandparents, and siblings.

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

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

9 (iv) All or part of the report or record containing the
10 specified information is publicly disclosed in a judicial
11 proceeding.

12 (v) A child abuse or **child** neglect complaint or investigation
13 to which the report or record containing the specified information
14 relates has been part of the subject matter of a published or
15 broadcast media story.

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

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

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

27 (a) The request for release does not include information
28 sufficient to identify the specific case to which the request
29 relates.

1 (b) An investigation of the report of child abuse or **child**
 2 neglect to which the specified information relates is in progress
 3 and the report has not been ~~substantiated or~~
 4 ~~unsubstantiated.~~ **confirmed or not confirmed.**

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

6 (d) There is an ongoing criminal investigation and, as
 7 determined by the local prosecuting attorney, release would
 8 interfere with the criminal investigation.

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

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

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

17 (a) Each ~~individual~~ **person** named in the report as a
 18 perpetrator or an alleged perpetrator of the ~~child's~~ **child** abuse or
 19 **child** neglect, unless the ~~individual~~ **person** named in the report has
 20 been convicted of a crime relating to the **child** abuse or **child**
 21 neglect, and no appeal is pending.

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

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

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

28 (2) If the director denies a request for release of
 29 information under section 7d, the department ~~shall~~ **must** notify only

1 the requesting person.

2 (3) If ~~an individual~~ **a person** required to be notified under
 3 subsection (1) (a) is named as a perpetrator of child abuse or **child**
 4 neglect in a report that contains specified information requested
 5 to be released, and that ~~individual~~ **person** was not previously
 6 notified under section ~~7(4), 7j(3)~~, the department ~~shall~~ **must**
 7 notify that ~~individual~~ **person** as required by section ~~7(4) 7j(3)~~ not
 8 less than 14 days before the specified information is released. If
 9 ~~an individual~~ **a person** who is required to be notified under this
 10 subsection requests expunction of the record within 14 days after
 11 the notice is given, the specified information shall not be
 12 released under this section until the procedures governing
 13 expunction under section ~~7 7j~~ are completed. If ~~an individual~~ **a**
 14 **person** who is required to be notified under this subsection does
 15 not request expunction within 14 days, the procedures for release
 16 of specified information under sections 7c to 7i ~~shall~~ **must** be
 17 followed, and the individual does not have a right to appeal the
 18 decision to release.

19 (4) **This section shall be known and may be cited as "Wyatt's**
 20 **law"**.

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

28 (2) If a central registry case involves a child's exposure to
 29 or contact with methamphetamine production, the department ~~shall~~

1 **must** refer the case to the prosecuting attorney for the county in
2 which the child is located. The prosecuting attorney ~~shall~~**must**
3 review the investigation of the case to determine whether the
4 investigation complied with the protocol adopted as required by
5 section 8.

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

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

12 (b) Category IV - community services recommended. Following a
13 field investigation, the department determines that there is not a
14 preponderance of evidence of child abuse or child neglect, but the
15 structured decision-making tool indicates that there is future risk
16 of harm to the child. The department ~~shall~~**must** assist the child's
17 family in voluntarily participating in community-based services
18 commensurate with the risk to the child.

19 (c) Category III - community services needed. The department
20 determines that there is a preponderance of evidence of child abuse
21 or child neglect, and the structured decision-making tool indicates
22 a low or moderate risk of future harm to the child. The department
23 ~~shall~~**must** assist the child's family in receiving community-based
24 services commensurate with the risk to the child. If the family
25 does not voluntarily participate in services, or the family
26 voluntarily participates in services, but does not progress toward
27 alleviating the child's risk level, the department ~~shall~~**must**
28 consider reclassifying the case as category II.

29 (d) Category II - child protective services required. The

1 department determines that there is evidence of child abuse or
2 child neglect, and the structured decision-making tool indicates a
3 high or intensive risk of future harm to the child. The department
4 shall ~~must~~ open a protective services case and provide the services
5 necessary under this act. ~~The department shall also list the~~
6 ~~perpetrator of the child abuse or child neglect, based on the~~
7 ~~report that was the subject of the field investigation, on the~~
8 ~~central registry as provided in section 7(7), either by name or as~~
9 ~~"unknown" if the perpetrator has not been identified.~~

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

13 (i) A court petition is required under another provision of
14 this act.

15 (ii) The child is not safe and a petition for removal is
16 needed.

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

20 (iv) There is a violation, involving the child, of a crime
21 listed or described in section 8a(1)(b), (c), (d), or (f) or of
22 child abuse in the first or second degree as prescribed by section
23 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b.

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

26 (a) If a court petition is not required under another
27 provision of this act, submit a petition for authorization by the
28 court under section 2(b) of chapter XIIA of the probate code of
29 1939, 1939 PA 288, MCL 712A.2.

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

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

8 ~~(3) The department is not required to use the structured~~
9 ~~decision-making tool for a nonparent adult who resides outside the~~
10 ~~child's home who is the victim or alleged victim of child abuse or~~
11 ~~child neglect or for an owner, operator, volunteer, or employee of~~
12 ~~a licensed or registered child care organization or a licensed or~~
13 ~~unlicensed adult foster care family home or adult foster care small~~
14 ~~group home as those terms are defined in section 3 of the adult~~
15 ~~foster care facility licensing act, 1979 PA 218, MCL 400.703.~~

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

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

26 (a) Statistical information including at least all of the
27 following:

28 (i) Total reports of abuse and neglect investigated under this
29 act and the number that were ~~substantiated~~ and

1 ~~unsubstantiated.~~**confirmed and not confirmed.**

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

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

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

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

14 (b) Policy related to child protective services including, but
15 not limited to, major policy changes and court decisions affecting
16 the administration of this act.

17 Sec. 18. (1) The department shall submit a petition for
18 authorization by the court under section 2(b) of chapter XIIIA of
19 1939 PA 288, MCL 712A.2, if 1 or more of the following apply:

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

25 (i) Abandonment of a young child.

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

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

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

2 (v) Life threatening injury.

3 (vi) Murder or attempted murder.

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

7 (i) The parent's rights to another child were terminated as a
8 result of proceedings under section 2(b) of chapter XIIIA of 1939 PA
9 288, MCL 712A.2, or a similar law of another state and the parent
10 has failed to rectify the conditions that led to the prior
11 termination of parental rights.

12 (ii) The parent's rights to another child were voluntarily
13 terminated following the initiation of proceedings under section
14 2(b) of chapter XIIIA of 1939 PA 288, MCL 712A.2, or a similar law
15 of another state, the parent has failed to rectify the conditions
16 that led to the prior termination of parental rights, and the
17 proceeding involved abuse that included 1 or more of the following:

18 (A) Abandonment of a young child.

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

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

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

24 (E) Life-threatening injury.

25 (F) Murder or attempted murder.

26 (G) Voluntary manslaughter.

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

29 (2) In a petition submitted as required by subsection (1), if

1 a parent is a suspected perpetrator or is suspected of placing the
2 child at an unreasonable risk of harm due to the parent's failure
3 to take reasonable steps to intervene to eliminate that risk, the
4 department shall include a request for termination of parental
5 rights at the initial dispositional hearing as authorized under
6 section 19b of chapter XIIIA of 1939 PA 288, MCL 712A.19b.

7 (3) If the department is considering petitioning for
8 termination of parental rights at the initial dispositional hearing
9 as authorized under section 19b of chapter XIIIA of 1939 PA 288, MCL
10 712A.19b, even though the facts of the child's case do not require
11 departmental action under subsection (1), the department shall hold
12 a conference among the appropriate agency personnel to agree upon
13 the course of action. The department shall notify the attorney
14 representing the child of the time and place of the conference, and
15 the attorney may attend. If an agreement is not reached at this
16 conference, the department director or the director's designee
17 shall resolve the disagreement after consulting the attorneys
18 representing both the department and the child.

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

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

- 24 (a) House Bill No. 5274.
- 25 (b) House Bill No. 5275.
- 26 (c) House Bill No. 5277.
- 27 (d) House Bill No. 5278.