

# HOUSE BILL NO. 4107

February 03, 2021, Introduced by Reps. Thanedar, Glenn, Whitsett, Whiteford, Calley, Kahle, Brabec, Rendon, Paquette, Bollin, Clemente, Lasinski, Camilleri, Hammoud, Puri, Hope, Anthony, Stone, Bolden, Allor, Jones and Yancey 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 2018 PA 59.

## 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,

1 in which a child is placed in accordance with section 5 of 1973 PA  
2 116, MCL 722.115.

3 (b) "Attorney" means, if appointed to represent a child under  
4 the provisions referenced in section 10, an attorney serving as the  
5 child's legal advocate in the manner defined and described in  
6 section 13a of chapter XIIIA of the probate code of 1939, 1939 PA  
7 288, MCL 712A.13a.

8 (c) "Central registry" means the system maintained at the  
9 department that is used to keep a record of all reports filed with  
10 the department under this act in which relevant and accurate  
11 evidence of child abuse or child neglect is found to exist.

12 (d) "Central registry case" means a child protective services  
13 case that the department classifies under sections 8 and 8d as  
14 category I or category II. For a child protective services case  
15 that was investigated before July 1, 1999, central registry case  
16 means an allegation of child abuse or child neglect that the  
17 department substantiated.

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

21 (f) "Child" means a person under 18 years of age.

22 (g) "Child abuse" means harm or threatened harm to a child's  
23 health or welfare that occurs through nonaccidental physical or  
24 mental injury, sexual abuse, sexual exploitation, or maltreatment,  
25 by a parent, a legal guardian, or any other person responsible for  
26 the child's health or welfare or by a teacher, a teacher's aide, or  
27 a member of the clergy.

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

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

4 (j) "Child care regulatory agency" means the department of  
5 licensing and regulatory affairs or a successor state department  
6 that is 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) "Member of the clergy" means a priest, minister, rabbi,  
3 Christian science practitioner, or other religious practitioner, or  
4 similar functionary of a church, temple, or recognized religious  
5 body, denomination, or organization.

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

8 (p) "CPSI system" means the child protective service  
9 information system, which is an internal data system maintained  
10 within and by the department, and which is separate from the  
11 central registry and not subject to section 7.

12 (q) "Department" means the department of health and human  
13 services.

14 (r) "Director" means the director of the department.

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

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

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

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

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

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

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

3           (w) "Online reporting system" means the electronic system  
4 established by the department for individuals identified in section  
5 3(1) to report suspected child abuse or child neglect.

6           (x) "Person responsible for the child's health or welfare"  
7 means a parent, legal guardian, person 18 years of age or older who  
8 resides for any length of time in the same home in which the child  
9 resides, or, except when used in section 7(2)(e) or 8(8), nonparent  
10 adult; or an owner, operator, volunteer, or employee of 1 or more  
11 of the following:

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

13           (ii) A licensed or unlicensed adult foster care family home or  
14 adult foster care small group home as **those terms are** defined in  
15 section 3 of the adult foster care facility licensing act, 1979 PA  
16 218, MCL 400.703.

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

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

22           (z) "Sexual abuse" means engaging in sexual contact or sexual  
23 penetration as those terms are defined in section 520a of the  
24 Michigan penal code, 1931 PA 328, MCL 750.520a, with a child.

25           (aa) "Sexual exploitation" includes allowing, permitting, or  
26 encouraging a child to engage in ~~prostitution,~~ **a commercial sexual**  
27 **activity**, or allowing, permitting, encouraging, or engaging in the  
28 photographing, filming, or depicting of a child engaged in a listed  
29 sexual act as **that term is** defined in section 145c of the Michigan

1 penal code, 1931 PA 328, MCL 750.145c.

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

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

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

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

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

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

25 (dd) "Substantiated" means a child protective services case  
26 classified as a central registry case.

27 (ee) "Unsubstantiated" means a child protective services case  
28 the department classifies under sections 8 and 8d as category III,  
29 category IV, or category V.

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

3           Enacting section 2. This amendatory act does not take effect  
4 unless Senate Bill No.\_\_\_\_ or House Bill No. 4112 (request no.  
5 01304'21) of the 101st Legislature is enacted into law.