

# HOUSE BILL NO. 5276

August 18, 2021, Introduced by Reps. Hertel, LaGrand, Hood, Stone, Tyrone Carter, Weiss, Aiyash, Hope, Witwer, Anthony, Kuppa, Cynthia Johnson, Bezotte, Huizenga, Rendon, Meerman, Maddock, Wozniak and Yancey and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1975 PA 238, entitled "Child protection law," by amending sections 5, 7d, 7e, 7g, 8b, 8d, and 9a (MCL 722.625, 722.627d, 722.627e, 722.627g, 722.628b, 722.628d, and 722.629a), 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, and section 8d as amended by 2014 PA 30.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**1** Sec. 5. Except for records available under section ~~7(2)(a)~~

1 ~~(b), and (n),~~ **7(1) (a), (b), and (n)**, the identity of a reporting  
2 person is confidential subject to disclosure only with the consent  
3 of that person or by judicial process. A person acting in good  
4 faith who makes a report, cooperates in an investigation, or  
5 assists in any other requirement of this act is immune from civil  
6 or criminal liability that might otherwise be incurred by that  
7 action. A person making a report or assisting in any other  
8 requirement of this act is presumed to have acted in good faith.  
9 This immunity from civil or criminal liability extends only to acts  
10 done according to this act and does not extend to a negligent act  
11 that causes personal injury or death or to the malpractice of a  
12 physician that results in personal injury or death.

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

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

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

28       (b) The release of the specified information is not in  
29 conflict with the best interest of the child to whom the specified

1 information relates, and 1 or more of the following are true:

2 (i) The release is in the best interest of a member of the  
3 child's family or of an individual who resides in the same home in  
4 which the child resides. For the purposes of this subparagraph, the  
5 child's family includes the child's parents, legal guardians,  
6 grandparents, and siblings.

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

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

12 (iv) All or part of the report or record containing the  
13 specified information is publicly disclosed in a judicial  
14 proceeding.

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

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

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

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

1 (a) The request for release does not include information  
2 sufficient to identify the specific case to which the request  
3 relates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           (2) If a central registry case involves a child's exposure to  
2 or contact with methamphetamine production, the department ~~shall~~  
3 **must** refer the case to the prosecuting attorney for the county in  
4 which the child is located. The prosecuting attorney ~~shall~~**must**  
5 review the investigation of the case to determine whether the  
6 investigation complied with the protocol adopted as required by  
7 section 8.

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

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

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

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

1 consider reclassifying the case as category II.

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

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

15 (i) A court petition is required under another provision of  
16 this act.

17 (ii) The child is not safe and a petition for removal is  
18 needed.

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

22 (iv) There is a violation, involving the child, of a crime  
23 listed or described in section 8a(1)(b), (c), (d), or (f) or of  
24 child abuse in the first or second degree as prescribed by section  
25 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b.

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

28 (a) If a court petition is not required under another  
29 provision of this act, submit a petition for authorization by the

1 court under section 2(b) of chapter XIIA of the probate code of  
2 1939, 1939 PA 288, MCL 712A.2.

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

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

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

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

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

28 (a) Statistical information including at least all of the  
29 following:



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

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

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

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

13 (v) Statistics relating to the basis for determining that  
14 reported cases of **child** abuse or **child** neglect are unsubstantiated.

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

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

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

23 (a) Senate Bill No. \_\_\_\_ or House Bill No. 5277 (request no.  
24 03590'21).

25 (b) Senate Bill No. \_\_\_\_ or House Bill No. 5278 (request no.  
26 03591'21).

27 (c) Senate Bill No. \_\_\_\_ or House Bill No. 5275 (request no.  
28 03592'21).

29 (d) Senate Bill No. \_\_\_\_ or House Bill No 5274 (request no.

**1** 03593'21).