

Act No. 66
Public Acts of 2022
Approved by the Governor
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**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2022**

Introduced by Reps. Hertel, LaGrand, Hood, Stone, Tyrone Carter, Weiss, Aiyash, Hope, Witwer, Anthony, Kupp, Cynthia Johnson, Bezotte, Huizenga, Rendon, Meerman, Maddock, Wozniak and Yancey

ENROLLED HOUSE BILL No. 5276

AN ACT to amend 1975 PA 238, entitled “An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detention in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts,” 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 2022 PA 47, 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:

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

(a) A physician, dentist, physician’s assistant, registered dental hygienist, medical examiner, nurse, person licensed to provide emergency medical care, audiologist, psychologist, physical therapist, physical therapist assistant, occupational therapist, athletic trainer, marriage and family therapist, licensed professional counselor, social worker, licensed master’s social worker, licensed bachelor’s social worker, registered social service technician, social service technician, a person employed in a professional capacity in any office of the friend of the court, school administrator, school counselor or teacher, law enforcement officer, member of the clergy, or regulated child care provider who has reasonable cause to suspect child abuse or child neglect shall make an immediate report to centralized intake by telephone, or, if available, through the online reporting system, of the suspected child abuse or child neglect. Within 72 hours after making an oral report by telephone to centralized intake, the reporting person shall file a written report as required in this act. If the immediate report has been made using the online reporting system and that report includes the information required in a written report under subsection (2), that report is considered a written report for the purposes of this section and no additional written report is required. If the reporting person is a member of the staff of a hospital, agency, or school, the reporting person shall notify the person in charge of the hospital, agency, or school of his or her finding and that the report has been made, and shall make a copy of the written or electronic report available to the person in charge. A notification to the person in charge of a hospital, agency, or school does not relieve the member of the

staff of the hospital, agency, or school of the obligation of reporting to the department as required by this section. One report from a hospital, agency, or school is adequate to meet the reporting requirement. A member of the staff of a hospital, agency, or school shall not be dismissed or otherwise penalized for making a report required by this act or for cooperating in an investigation.

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

- (i) Eligibility specialist.
- (ii) Family independence manager.
- (iii) Family independence specialist.
- (iv) Social services specialist.
- (v) Social work specialist.
- (vi) Social work specialist manager.
- (vii) Welfare services specialist.

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

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

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

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

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

(6) If an allegation, written report, or subsequent investigation of suspected child abuse or child neglect indicates a violation of section 136b, 145c, 462a to 462h, or 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, 750.462a to 750.462h, and 750.520b to 750.520g, or a violation of section 7401c of the public health code, 1978 PA 368, MCL 333.7401c, involving methamphetamine has occurred, or if the allegation, written report, or subsequent investigation indicates that the suspected child abuse or child neglect was committed by an individual who is not a person responsible for the child's health or welfare, including, but not limited to, a member of the clergy, a teacher, a teacher's aide, or an individual 18 years of age or older who is involved in a youth program, the department must transmit a copy of the allegation or written report and the results of any investigation to a law enforcement agency in the county in which the incident occurred. If an allegation, written report, or subsequent investigation indicates that the individual who committed the suspected child abuse or child neglect is a child care provider and the department believes that the report has basis in fact, the department shall, within 24 hours after completion of the allegation, written report, or subsequent investigation, transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child.

(7) If a local law enforcement agency receives an allegation or written report of suspected child abuse or child neglect or discovers evidence of or receives a report of an individual allowing a child to be exposed to or to have contact with methamphetamine production, and the allegation, written report, or subsequent investigation indicates that the child abuse or child neglect or allowing a child to be exposed to or to have contact with methamphetamine production, was committed by a person responsible for the child's health or welfare, the local law enforcement agency shall refer the allegation or provide a copy of the written report and the results of any investigation to the county department of the county in which the abused or neglected child is found, as required by subsection (1)(a). If an allegation, written report, or subsequent investigation indicates that the individual who committed the suspected child abuse or child neglect or allowed a child to be exposed to or to have contact with methamphetamine production, is a child care provider and the local law enforcement agency believes that the report has basis in fact, the local law enforcement agency shall transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child. Neither this subsection nor subsection (1) relieves the department of its responsibilities to investigate reports of suspected child abuse or child neglect under this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) An investigation of the report of child abuse or child neglect to which the specified information relates is in progress and the report has not been confirmed or not confirmed.

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

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

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

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

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

(a) Each person named in the report as a perpetrator or an alleged perpetrator of the child abuse or child neglect, unless the person named in the report has been convicted of a crime relating to the child abuse or child neglect, and no appeal is pending.

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

(c) Each attorney representing the child who is the subject of the case, or representing a person listed in subdivision (a) or (b), if the department has notice of that representation.

(d) The child's guardian ad litem.

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

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

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

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

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

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

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

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

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

(d) Category II - child protective services required. The department determines that there is evidence of child abuse or child neglect, and the structured decision-making tool indicates a high or intensive risk of future harm to the child. The department must open a protective services case and provide the services necessary under this act.

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

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

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

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

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

(2) In response to a category I classification, the department must do both of the following:

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

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

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

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

(i) Total reports of abuse and neglect investigated under this act and the number that were confirmed and not confirmed.

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

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

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

(v) Statistics relating to the basis for determining that reported cases of child abuse or child neglect are not confirmed.

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

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

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

(i) Abandonment of a young child.

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

(iii) Battering, torture, or other serious physical harm.

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

(v) Life threatening injury.

(vi) Murder or attempted murder.

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

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

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

(A) Abandonment of a young child.

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

(C) Battering, torture, or other serious physical harm.

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

(E) Life-threatening injury.

(F) Murder or attempted murder.

(G) Voluntary manslaughter.

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

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

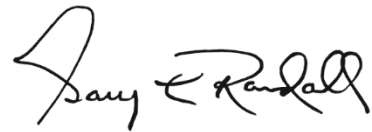
(3) If the department is considering petitioning for termination of parental rights at the initial dispositional hearing as authorized under section 19b of chapter XIA of 1939 PA 288, MCL 712A.19b, even though the facts of the child's case do not require departmental action under subsection (1), the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

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

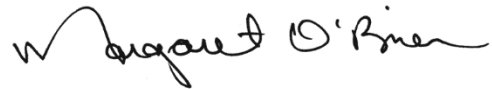
Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 101st Legislature are enacted into law:

- (a) House Bill No. 5274.
- (b) House Bill No. 5275.
- (c) House Bill No. 5277.
- (d) House Bill No. 5278.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor