CHILD IDENTIFICATION AND PROTECTION ACT
Act 176 of 1985

AN ACT to safeguard the privacy of children by regulating the fingerprinting of children.

History: 1985, Act 176, Imd. Eff. Dec. 2, 1985.

The People of the State of Michigan enact:

722.771 Short title.

Sec. 1. This act shall be known and may be cited as the “child identification and protection act”.

History: 1985, Act 176, Imd. Eff. Dec. 2, 1985.

722.772 Definitions.

Sec. 2. As used in this act:

(a) "Child" means any person under 17 years of age.

(b) "Child or youth with special health care needs" means a single or married individual under 21 years of age whose activity is or may become so restricted by disease or specified medical condition as to reduce the individual's normal capacity for education and self-support.

(c) "Department" means the department of state police.

(d) "Department-approved entity" means an entity, including a local law enforcement agency or a private company, approved by the department to take the fingerprints and photograph of a child or youth with special health care needs under section 4.

(e) "Governmental unit" means the state or any political subdivision of the state, an authorized representative of the state or any political subdivision of the state, any school district, intermediate school district, or an authorized representative of any school district or intermediate school district.

(f) "Guardian" means a person who has qualified as a guardian of a minor or a child or youth with special health care needs under a parental or spousal nomination or a court order issued under section 19a or 19c of chapter XIIA of the probate code of 1939, MCL 712A.19a and 712A.19c, section 5204, 5205, or 5306 of the estates and protected individuals code, 1998 PA 386, MCL 700.5204, 700.5205, and 700.5306, or sections 600 to 644 of the mental health code, 1974 PA 258, MCL 330.1600 to 330.1644. Guardian may also include a person appointed by a tribal court under tribal code or custom. Guardian does not include a guardian ad litem.

History: 1985, Act 176, Imd. Eff. Dec. 2, 1985;—Am. 2017, Act 24, Eff. Aug. 2, 2017.

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722.773 Fingerprinting child; prohibition; exception.

Sec. 3. Except as provided in section 4, a governmental unit shall not fingerprint a child.

History: 1985, Act 176, Imd. Eff. Dec. 2, 1985.

722.774 Fingerprinting and photographing child; conditions.

Sec. 4. (1) Except for fingerprints taken from a child or youth with special health care needs under the process provided for in subsection (2), the following conditions govern a governmental unit's authority to fingerprint a child:

(a) A governmental unit may fingerprint a child if a parent or guardian has given written authorization for the taking of the fingerprints for use in the future if the child becomes a runaway or a missing child. Only 1 set of prints shall be taken and the fingerprint cards must be given to the parent or guardian for safekeeping. The fingerprints, written authorizations for fingerprinting, or notice of their existence must not be recorded, stored, or kept in any manner by a police agency, except as provided in this subdivision or except at the request of the parent or guardian if the child becomes a runaway or a missing child. If the child is located or the case is otherwise disposed of, the fingerprint cards must be returned to the parents or guardian.

(b) A governmental unit shall fingerprint a child if required under section 3 of 1925 PA 289, MCL 28.243, section 1 of 1935 PA 120, MCL 28.271, or section 724 of the mental health code, 1974 PA 258, MCL 330.1724.

(c) A governmental unit shall fingerprint a child if fingerprinting is required by court order.

(d) A governmental unit may fingerprint a child if fingerprints are voluntarily given with the written permission of the child and parent or guardian, upon request of a law enforcement officer, to aid in a specific criminal investigation. Only 1 set of prints shall be taken and, upon completion of the investigation, the law enforcement agency shall return the fingerprint cards to the parent or guardian of the child.

(2) A parent or guardian of a child or youth with special health care needs may submit a written request to a department-approved entity to take the fingerprints and photograph of the child or youth with special health

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care needs and add them to the automated fingerprint identification system (AFIS) database and the statewide network of agency photos maintained by the department. As used in this subsection and subsections (5), (6), and (8), "parent" means the natural or adoptive parent of a child or youth with special health care needs who has either or both sole or joint legal or physical custody of the child if a court order dictating custody is in place, or the natural or adoptive parent of a child or youth with special health care needs if there is no court order dictating custody in place.

(3) A written request made under subsection (2) must be made on a form posted on the department's website. Along with the form, the department shall provide a list of department-approved entities on the department's website.

(4) The department may charge a fee sufficient to reimburse the department for the costs associated with processing a request under subsection (2).

(5) At the time a child or youth with special health care needs is presented at a department-approved entity to have his or her fingerprints and photograph taken under subsection (2), the department-approved entity taking the fingerprints and photograph shall require the parent or guardian presenting the child or youth with special health care needs to execute a signed waiver allowing the child's fingerprints and digital image to be collected.

(6) At the time a child or youth with special health care needs is presented at a department-approved entity to have his or her fingerprints and photograph taken under subsection (2), the department-approved entity taking fingerprints and photograph shall require the parent or guardian presenting the child or youth with special health care needs to remit the fee described in subsection (4). The department-approved entity shall forward the fee collected under this subsection to the department in the manner the department prescribes.

(7) The department shall forward the fingerprints and photographs taken under subsection (2) to the director of the Federal Bureau of Investigation on forms furnished by or in a manner prescribed by the director for registration, storage, and use for identification purposes by the Federal Bureau of Investigation.

(8) A parent or guardian may make a written request to the department to have the fingerprints and photograph of a child or youth with special health care needs taken under subsection (2) removed from the automated fingerprint identification system (AFIS) database and the statewide network of agency photos. The department shall remove the fingerprints and photograph of a child or youth with special health care needs taken under subsection (2) from the automated fingerprint identification system (AFIS) database and the statewide network of agency photos upon receipt of a written request made by a parent or guardian under this subsection.

History: 1985, Act 176, Imd. Eff. Dec. 2, 1985;—Am. 2017, Act 24, Eff. Aug. 2, 2017;—Am. 2017, Act 103, Eff. Aug. 2, 2017.

722.775 Conditional effective date.

Sec. 5. This act shall not take effect unless House Bill No. 4228 of the 83rd Legislature is enacted into law.

History: 1985, Act 176, Imd. Eff. Dec. 2, 1985.

Compiler's note: House Bill No. 4228, referred to in this section, became P.A. 1985, No. 175, Imd. Eff. Dec. 2, 1985.

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