

SUBSTITUTE FOR
HOUSE BILL NO. 4493

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending sections 2, 3, and 12b (MCL 722.622, 722.623, and
722.632b), section 2 as amended by 2004 PA 563, section 3 as
amended by 2008 PA 510, and section 12b as added by 2012 PA 593.

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 defined in section 3 of the adult foster care
5 facility licensing act, 1979 PA 218, MCL 400.703, in which a child
6 is placed in accordance with section 5 of 1973 PA 116, MCL 722.115.

7 (b) "Attorney" means, if appointed to represent a child under
8 the provisions referenced in section 10, an attorney serving as the

1 child's legal advocate in the manner defined and described in
2 section 13a of chapter XIIIA of the probate code of 1939, 1939 PA
3 288, MCL 712A.13a.

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

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

14 (e) "Child" means a person under 18 years of age.

15 (f) "Child abuse" means harm or threatened harm to a child's
16 health or welfare that occurs through nonaccidental physical or
17 mental injury, sexual abuse, sexual exploitation, or maltreatment,
18 by a parent, a legal guardian, or any other person responsible for
19 the child's health or welfare or by a teacher, a teacher's aide,
20 **ANY OTHER SCHOOL EMPLOYEE**, or a member of the clergy.

21 (g) "Child care organization" means that term as defined in
22 section 1 of 1973 PA 116, MCL 722.111.

23 (h) "Child care provider" means an owner, operator, employee,
24 or volunteer of a child care organization or of an adult foster
25 care location authorized to care for a child.

26 (i) "Child care regulatory agency" means the department ~~of~~
27 ~~consumer and industry services~~ or a successor state department that

1 is responsible for the licensing or registration of child care
2 organizations or the licensing of adult foster care locations
3 authorized to care for a child.

4 (j) "Child neglect" means harm or threatened harm to a child's
5 health or welfare by a parent, legal guardian, or any other person
6 responsible for the child's health or welfare that occurs through
7 either of the following:

8 (i) Negligent treatment, including the failure to provide
9 adequate food, clothing, shelter, or medical care.

10 (ii) Placing a child at an unreasonable risk to the child's
11 health or welfare by failure of the parent, legal guardian, or
12 other person responsible for the child's health or welfare to
13 intervene to eliminate that risk when that person is able to do so
14 and has, or should have, knowledge of the risk.

15 (k) "Citizen review panel" means a panel established as
16 required by section 106 of title I of the child abuse prevention
17 and treatment act, ~~Public Law 93-247, 42 U.S.C. 5106a.~~ **42 USC 5106A.**

18 (l) "Member of the clergy" means a priest, minister, rabbi,
19 Christian science practitioner, or other religious practitioner, or
20 similar functionary of a church, temple, or recognized religious
21 body, denomination, or organization.

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

24 (n) "CPSI system" means the child protective service
25 information system, ~~which-THAT~~ is an internal data system
26 maintained within and by the department, and ~~which-THAT~~ is separate
27 from the central registry and not subject to section 7.

(o) "Department" means the ~~family independence~~
~~agency~~. **DEPARTMENT OF HUMAN SERVICES.**

(p) "Director" means the director of the department.

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

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

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

(t) "Nonparent adult" means a person who is 18 years of age or
older and who, regardless of the person's domicile, meets all of
the following criteria in relation to a child:

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

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

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

**(U) "OTHER SCHOOL EMPLOYEE" MEANS AN INDIVIDUAL EMPLOYED BY A
PUBLIC OR NONPUBLIC SCHOOL, OR BY ANOTHER ENTITY CONTRACTED BY A
PUBLIC OR NONPUBLIC SCHOOL, WHO WORKS REGULARLY AND CONTINUOUSLY
FOR COMPENSATION WITH CHILDREN ON THE SCHOOL PREMISES, INCLUDING,
BUT NOT LIMITED TO, A JANITOR OR COACH OR AN INDIVIDUAL EMPLOYED BY
A COMMUNITY COLLEGE, COLLEGE, OR UNIVERSITY IN THIS STATE TO WORK
REGULARLY AND CONTINUOUSLY WITH CHILDREN ON BEHALF OF THE COMMUNITY**

1 COLLEGE, COLLEGE, OR UNIVERSITY. OTHER SCHOOL EMPLOYEE DOES NOT
 2 INCLUDE AN INDIVIDUAL COMPENSATED OR EMPLOYED BY A THIRD PARTY TO
 3 WORK ON THE SCHOOL PREMISES ON AN INCIDENTAL OR TEMPORARY BASIS IF
 4 THAT WORK DOES NOT INVOLVE REGULAR INTERACTION WITH CHILDREN. OTHER
 5 SCHOOL EMPLOYEE DOES NOT INCLUDE AN INDIVIDUAL WHO IS UNDER 18
 6 YEARS OF AGE.

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

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

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

17 (W) ~~(v)~~—"Relevant evidence" means evidence having a tendency
 18 to make the existence of a fact that is at issue more probable than
 19 it would be without the evidence.

20 (X) ~~(w)~~—"Sexual abuse" means engaging in sexual contact or
 21 sexual penetration as those terms are defined in section 520a of
 22 the Michigan penal code, 1931 PA 328, MCL 750.520a, with a child.

23 (Y) ~~(x)~~—"Sexual exploitation" includes allowing, permitting,
 24 or encouraging a child to engage in prostitution, or allowing,
 25 permitting, encouraging, or engaging in the photographing, filming,
 26 or depicting of a child engaged in a listed sexual act as defined
 27 in section 145c of the Michigan penal code, 1931 PA 328, MCL

1 750.145c.

2 (Z) ~~(y)~~ "Specified information" means information in a
3 children's protective services case record related specifically to
4 the department's actions in responding to a complaint of child
5 abuse or **CHILD** neglect. Specified information does not include any
6 of the 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 law enforcement report as provided in
17 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 (AA) ~~(z)~~ "Structured decision-making tool" means the
23 department document labeled "DSS-4752 (P3) (3-95)" or a revision of
24 that document that better measures the risk of future harm to a
25 child.

26 (BB) ~~(aa)~~ "Substantiated" means a child protective services
27 case classified as a central registry case.

1 (CC) ~~(bb)~~—"Unsubstantiated" means a child protective services
2 case the department classifies under sections 8 and 8d as category
3 III, category IV, or category V.

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

6 (a) A physician, dentist, physician's assistant, registered
7 dental hygienist, medical examiner, nurse, person licensed to
8 provide emergency medical care, audiologist, psychologist, marriage
9 and family therapist, licensed professional counselor, social
10 worker, licensed master's social worker, licensed bachelor's social
11 worker, registered social service technician, social service
12 technician, a person employed in a professional capacity in any
13 office of the friend of the court, school administrator, school
14 counselor, ~~or~~ teacher, **OTHER SCHOOL EMPLOYEE**, law enforcement
15 officer, member of the clergy, or regulated child care provider who
16 has reasonable cause to suspect child abuse or **CHILD** neglect shall
17 make immediately, by telephone or otherwise, an oral report, or
18 cause an oral report to be made, of the suspected child abuse or
19 **CHILD** neglect to the department. Within 72 hours after making the
20 oral report, the reporting person shall file a written report as
21 required in this act. If the reporting person is a member of the
22 staff of a hospital, agency, ~~or~~ school, **COMMUNITY COLLEGE, COLLEGE,**
23 **OR UNIVERSITY**, the reporting person shall notify the person in
24 charge of the hospital, agency, ~~or~~ school, **COMMUNITY COLLEGE,**
25 **COLLEGE, OR UNIVERSITY** of his or her finding and that the report
26 has been made, and shall make a copy of the written report
27 available to the person in charge. A notification to the person in

1 charge of a hospital, agency, ~~or~~ school, **COMMUNITY COLLEGE,**
2 **COLLEGE, OR UNIVERSITY** does not relieve the member of the staff of
3 the hospital, agency, ~~or~~ school, **COMMUNITY COLLEGE, COLLEGE, OR**
4 **UNIVERSITY** of the obligation of reporting to the department as
5 required by this section. One report from a hospital, agency, ~~or~~
6 school, **COMMUNITY COLLEGE, COLLEGE, OR UNIVERSITY** is adequate to
7 meet the reporting requirement. A member of the staff of a
8 hospital, agency, ~~or~~ school, **COMMUNITY COLLEGE, COLLEGE, OR**
9 **UNIVERSITY** shall not be dismissed or otherwise penalized for making
10 a report required by this act or for cooperating in an
11 investigation.

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

- 16 (i) Eligibility specialist.
17 (ii) Family independence manager.
18 (iii) Family independence specialist.
19 (iv) Social services specialist.
20 (v) Social work specialist.
21 (vi) Social work specialist manager.
22 (vii) Welfare services specialist.

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

1 subdivision (a).

2 (2) The written report shall contain the name of the child and
3 a description of the **CHILD** abuse or **CHILD** neglect. If possible, the
4 report shall contain the names and addresses of the child's
5 parents, the child's guardian, the persons with whom the child
6 resides, and the child's age. The report shall contain other
7 information available to the reporting person that might establish
8 the cause of the **CHILD** abuse or **CHILD** neglect, and the manner in
9 which the **CHILD** abuse or **CHILD** neglect occurred.

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

13 (4) The written report required in this section shall be
14 mailed or otherwise transmitted to the county department of the
15 county in which the child suspected of being abused or neglected is
16 found.

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

22 (6) If an allegation, written report, or subsequent
23 investigation of suspected child abuse or child neglect indicates a
24 violation of sections 136b and 145c, sections 520b to 520g of the
25 Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, and
26 750.520b to 750.520g, or section 7401c of the public health code,
27 1978 PA 368, MCL 333.7401c, involving methamphetamine has occurred,

1 or if the allegation, written report, or subsequent investigation
2 indicates that the suspected child abuse or child neglect was
3 committed by an individual who is not a person responsible for the
4 child's health or welfare, including, but not limited to, a member
5 of the clergy, a teacher, ~~or~~a teacher's aide, **OR OTHER SCHOOL**
6 **EMPLOYEE**, the department shall transmit a copy of the allegation or
7 written report and the results of any investigation to a law
8 enforcement agency in the county in which the incident occurred. If
9 an allegation, written report, or subsequent investigation
10 indicates that the individual who committed the suspected **CHILD**
11 abuse or **CHILD** neglect is a child care provider and the department
12 believes that the report has basis in fact, the department shall,
13 within 24 hours of completion, transmit a copy of the written
14 report or the results of the investigation to the child care
15 regulatory agency with authority over the child care provider's
16 child care organization or adult foster care location authorized to
17 care for a child.

18 (7) If a local law enforcement agency receives an allegation
19 or written report of suspected child abuse or child neglect or
20 discovers evidence of or receives a report of an individual
21 allowing a child to be exposed to or to have contact with
22 methamphetamine production, and the allegation, written report, or
23 subsequent investigation indicates that the child abuse or child
24 neglect or allowing a child to be exposed to or to have contact
25 with methamphetamine production, was committed by a person
26 responsible for the child's health or welfare, the local law
27 enforcement agency shall refer the allegation or provide a copy of

1 the written report and the results of any investigation to the
2 county department of the county in which the abused or neglected
3 child is found, as required by subsection (1)(a). If an allegation,
4 written report, or subsequent investigation indicates that the
5 individual who committed the suspected **CHILD** abuse or **CHILD** neglect
6 or allowed a child to be exposed to or to have contact with
7 methamphetamine production, is a child care provider and the local
8 law enforcement agency believes that the report has basis in fact,
9 the local law enforcement agency shall transmit a copy of the
10 written report or the results of the investigation to the child
11 care regulatory agency with authority over the child care
12 provider's child care organization or adult foster care location
13 authorized to care for a child. Nothing in this subsection or
14 subsection (1) shall be construed to relieve the department of its
15 responsibilities to investigate reports of suspected child abuse or
16 child neglect under this act.

17 (8) For purposes of this act, the pregnancy of a child less
18 than 12 years of age or the presence of a venereal disease in a
19 child who is over 1 month of age but less than 12 years of age is
20 reasonable cause to suspect child abuse ~~and OR~~ **CHILD** neglect ~~have~~
21 **HAS** occurred.

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

27 Sec. 12b. (1) The task force on the prevention of sexual abuse

1 of children is created within the department.

2 (2) The governor shall appoint members to the task force in
3 consultation with the department. The appointment of members must
4 reflect the geographic diversity of this state. Members of the task
5 force must include the following:

6 (a) Individuals who have experience and expertise in the
7 fields of intervention and prevention of child abuse and **CHILD**
8 neglect, education, or child welfare.

9 (b) A representative from the Michigan coalition to end
10 domestic and sexual violence.

11 (c) A representative from the Michigan domestic and sexual
12 violence prevention and treatment board.

13 (d) A representative from the Michigan chapter of the national
14 children's alliance.

15 (e) An administrator or staff member of a child assessment
16 center.

17 (f) A licensed therapist trained to counsel or treat child
18 sexual abuse victims.

19 (g) A circuit court judge or his or her designee.

20 (h) A school district board member, intermediate school
21 district board member, or public school academy board member.

22 (3) The department director or his or her designee shall serve
23 as the task force's presiding officer. The task force shall meet at
24 the call of the presiding officer. The task force shall make
25 recommendations for reducing child sexual abuse in this state. The
26 task force shall also make recommendations for school policies that
27 address the sexual abuse of children. In making those

1 recommendations, the task force shall do all of the following:

2 (a) Gather information concerning child sexual abuse
3 throughout this state.

4 (b) Receive reports and testimony from individuals, state and
5 local agencies, community-based organizations, and other public and
6 private organizations.

7 (c) Review steps taken and programs established in other
8 states to reduce child sexual abuse.

9 (d) Create goals for state policy that are aimed at preventing
10 child sexual abuse.

11 (e) Create recommendations and guidelines for school policies
12 addressing sexual abuse of children according to section 1505 of
13 the revised school code, 1976 PA 451, MCL 380.1505. These
14 recommendations and guidelines shall be flexible enough to allow
15 accommodation for local autonomy and values.

16 (f) Create recommendations and guidelines for age-appropriate,
17 evidence-based child sexual abuse awareness.

18 (g) Create recommendations and guidelines for school personnel
19 to respond appropriately to pupils affected by sexual abuse.

20 (h) Create recommendations and guidelines for providing
21 educational material to parents and guardians on the warning signs
22 of child sexual abuse and information on assistance and referrals
23 or resources.

24 (i) Develop a child sexual abuse protocol to be utilized by
25 all community partners in order to help to identify, prevent, and
26 investigate child sexual abuse.

27 (j) Submit a final report with the task force's

1 recommendations to the governor and the legislature not later than
2 365 days after the members of the task force are appointed.

3 (4) The recommendations described under subsection (3) may
4 include proposals for specific statutory changes and methods to
5 foster cooperation among state agencies and between the state and
6 local government.

7 (5) The task force shall consult with the employees of the
8 department who work on child protection matters, the department of
9 state police, the state board of education, and any other state
10 agency or department necessary to accomplish the task force's
11 responsibilities under this section.

12 ~~—— (6) The members of the task force shall serve without~~
13 ~~compensation and shall not be reimbursed for their expenses.~~

14 (6) ~~(7)~~ The task force shall be abolished upon submission of
15 the final report required in subsection (3) to the governor and the
16 legislature.

17 (7) ~~(8)~~ Upon written request from a child or the child's
18 parent or legal guardian, that child shall be excused, without
19 penalty, from participating in the task force's information-
20 gathering efforts.

21 (8) ~~(9)~~ As used in this section, "task force" means the task
22 force on the prevention of sexual abuse of children created in
23 subsection (1).

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