

# HOUSE BILL No. 4493

March 21, 2013, Introduced by Reps. Kesto, McCready, Dillon, LaVoy, Bumstead, Haines, Crawford, Johnson, Callton, VerHeulen, Outman, Daley, Hooker, McCann, Yonker, Schmidt, Olumba, Zemke and Ananich and referred to the Committee on Families, Children, and Seniors.

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

## 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  
9 child's legal advocate in the manner defined and described in

1 section 13a of chapter XIIIA of the probate code of 1939, 1939 PA  
2 288, MCL 712A.13a.

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

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

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

14 (f) "Child abuse" means harm or threatened harm to a child's  
15 health or welfare that occurs through nonaccidental physical or  
16 mental injury, sexual abuse, sexual exploitation, or maltreatment,  
17 by a parent, a legal guardian, or any other person responsible for  
18 the child's health or welfare or by a teacher, a teacher's aide, ~~or~~  
19 **ANOTHER PERSON EMPLOYED IN A PUBLIC OR NONPUBLIC SCHOOL**, a member  
20 of the clergy, **OR AN INDIVIDUAL WHO HOLDS HIMSELF OR HERSELF OUT AS**  
21 **A MEMBER OF THE CLERGY.**

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

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

27 (i) "Child care regulatory agency" means the department ~~of~~

1 ~~consumer and industry services~~ or a successor state department that  
2 is responsible for the licensing or registration of child care  
3 organizations or the licensing of adult foster care locations  
4 authorized to care for a child.

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

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

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

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

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

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

25 (n) "CPSI system" means the child protective service  
26 information system, which is an internal data system maintained  
27 within and by the department, and which is separate from the

1 central registry and not subject to section 7.

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

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

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

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

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

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

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

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

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

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

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

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

5 (v) "Relevant evidence" means evidence having a tendency to  
6 make the existence of a fact that is at issue more probable than it  
7 would be without the evidence.

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

11 (x) "Sexual exploitation" includes allowing, permitting, or  
12 encouraging a child to engage in prostitution, or allowing,  
13 permitting, encouraging, or engaging in the photographing, filming,  
14 or depicting of a child engaged in a listed sexual act as defined  
15 in section 145c of the Michigan penal code, 1931 PA 328, MCL  
16 750.145c.

17 (y) "Specified information" means information in a children's  
18 protective services case record related specifically to the  
19 department's actions in responding to a complaint of child abuse or  
20 neglect. Specified information does not include any of the  
21 following:

22 (i) Except as provided in this subparagraph regarding a  
23 perpetrator of child abuse or **CHILD** neglect, personal  
24 identification information for any individual identified in a child  
25 protective services record. The exclusion of personal  
26 identification information as specified information prescribed by  
27 this subparagraph does not include personal identification

1 information identifying an individual alleged to have perpetrated  
2 child abuse or neglect, which allegation has been classified as a  
3 central registry case.

4 (ii) Information in a law enforcement report as provided in  
5 section 7(8).

6 (iii) Any other information that is specifically designated as  
7 confidential under other law.

8 (iv) Any information not related to the department's actions in  
9 responding to a report of child abuse or **CHILD** neglect.

10 (z) "Structured decision-making tool" means the department  
11 document labeled "DSS-4752 (P3) (3-95)" or a revision of that  
12 document that better measures the risk of future harm to a child.

13 (aa) "Substantiated" means a child protective services case  
14 classified as a central registry case.

15 (bb) "Unsubstantiated" means a child protective services case  
16 the department classifies under sections 8 and 8d as category III,  
17 category IV, or category V.

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

20 (a) A physician, dentist, physician's assistant, registered  
21 dental hygienist, medical examiner, nurse, person licensed to  
22 provide emergency medical care, audiologist, psychologist, marriage  
23 and family therapist, licensed professional counselor, social  
24 worker, licensed master's social worker, licensed bachelor's social  
25 worker, registered social service technician, social service  
26 technician, a person employed in a professional capacity in any  
27 office of the friend of the court, school administrator, school

1 counselor, ~~or~~ teacher, OR OTHER PERSON EMPLOYED IN A PUBLIC OR  
2 NONPUBLIC SCHOOL, law enforcement officer, member of the clergy, OR  
3 AN INDIVIDUAL WHO HOLDS HIMSELF OR HERSELF OUT AS A MEMBER OF THE  
4 CLERGY, or regulated child care provider who has reasonable cause  
5 to suspect child abuse or **CHILD** neglect shall make immediately, by  
6 telephone or otherwise, an oral report, or cause an oral report to  
7 be made, of the suspected child abuse or **CHILD** neglect to the  
8 department. Within 72 hours after making the oral report, the  
9 reporting person shall file a written report as required in this  
10 act. If the reporting person is a member of the staff of a  
11 hospital, agency, or school, the reporting person shall notify the  
12 person in charge of the hospital, agency, or school of his or her  
13 finding and that the report has been made, and shall make a copy of  
14 the written report available to the person in charge. A  
15 notification to the person in charge of a hospital, agency, or  
16 school does not relieve the member of the staff of the hospital,  
17 agency, or school of the obligation of reporting to the department  
18 as required by this section. One report from a hospital, agency, or  
19 school is adequate to meet the reporting requirement. A member of  
20 the staff of a hospital, agency, or school shall not be dismissed  
21 or otherwise penalized for making a report required by this act or  
22 for cooperating in an investigation.

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

27 (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 shall contain the name of the child and a description of the abuse or 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 abuse or neglect, and the manner in which the abuse or 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 shall be mailed or otherwise transmitted to the county department of the county in which the child suspected of being abused or neglected is found.

(5) Upon receipt of a written report of suspected child abuse



1 or neglect, the department may provide copies to the prosecuting  
2 attorney and the probate court of the counties in which the child  
3 suspected of being abused or neglected resides and is found.

4 (6) If an allegation, written report, or subsequent  
5 investigation of suspected child abuse or child neglect indicates a  
6 violation of sections 136b and 145c, sections 520b to 520g of the  
7 Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, and  
8 750.520b to 750.520g, or section 7401c of the public health code,  
9 1978 PA 368, MCL 333.7401c, involving methamphetamine has occurred,  
10 or if the allegation, written report, or subsequent investigation  
11 indicates that the suspected child abuse or child neglect was  
12 committed by an individual who is not a person responsible for the  
13 child's health or welfare, including, but not limited to, a member  
14 of the clergy, **AN INDIVIDUAL WHO HOLDS HIMSELF OR HERSELF OUT AS A**  
15 **MEMBER OF THE CLERGY**, a teacher, ~~or~~ a teacher's aide, **OR ANOTHER**  
16 **PERSON EMPLOYED IN A PUBLIC OR NONPUBLIC SCHOOL**, the department  
17 shall transmit a copy of the allegation or written report and the  
18 results of any investigation to a law enforcement agency in the  
19 county in which the incident occurred. If an allegation, written  
20 report, or subsequent investigation indicates that the individual  
21 who committed the suspected abuse or neglect is a child care  
22 provider and the department believes that the report has basis in  
23 fact, the department shall, within 24 hours of completion, transmit  
24 a copy of the written report or the results of the investigation to  
25 the child care regulatory agency with authority over the child care  
26 provider's child care organization or adult foster care location  
27 authorized to care for a child.

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

27           (8) For purposes of this act, the pregnancy of a child less

1 than 12 years of age or the presence of a venereal disease in a  
2 child who is over 1 month of age but less than 12 years of age is  
3 reasonable cause to suspect child abuse ~~and~~**OR CHILD** neglect have  
4 occurred.

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