

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5275**

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending section 7j (MCL 722.627j), as amended by 2010 PA 81.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7j. (1) The department must maintain a statewide,
2 electronic case management system to carry out the intent of this
3 act. The department may enter into vendor contracts that it
4 considers necessary and proper for implementation, review, and
5 update of the electronic case management system. The department
6 must solicit proposals from entities to provide the services
7 necessary to implement, review, and update the electronic case
8 management system.

9 (2) The department must classify a confirmed case of



1 methamphetamine production, confirmed serious abuse or neglect,
2 confirmed sexual abuse, or confirmed sexual exploitation, as a
3 central registry case. Upon request from the court in which the
4 conviction occurred, the department must classify a felony
5 conviction for a violation of section 136b of the Michigan penal
6 code, 1931 PA 328, MCL 750.136b, a conviction for a violation of
7 chapter LXXVI of the Michigan penal code, 1931 PA 328, MCL 750.520a
8 to 750.520o, involving a minor victim, a conviction for a violation
9 of section 145c of the Michigan penal code, 1931 PA 328, MCL
10 750.145c, and any conviction involving the death of a child as a
11 central registry case. A court making a request under this
12 subsection must do so using language that makes it clear that a
13 classification as a central registry case based solely on a
14 criminal conviction enumerated in this subsection ends in the event
15 that the underlying conviction is expunged.

16 (3) Within 30 days after the classification of a central
17 registry case, the department must notify in writing each person
18 who is named in the record as a perpetrator of the confirmed
19 serious abuse or neglect, confirmed sexual abuse, confirmed sexual
20 exploitation, or confirmed case of methamphetamine production. The
21 notice requirements include all of the following:

22 (a) The notice must be sent by registered or certified mail,
23 return receipt requested, and delivery restricted to the addressee.

24 (b) The notice must set forth the person's right to request
25 expunction of the record and the right to a hearing if the
26 department refuses the request.

27 (c) The notice must state that the record may be released
28 under section 7d.

29 (d) The notice must not identify the person reporting the



1 suspected child abuse or child neglect.

2 (4) A person who is the subject of a report or record made
3 under this section may request the department amend an inaccurate
4 report or record from the central registry and local office file.
5 An individual placed on the central registry as a result of a
6 conviction described in subsection (2) may request an
7 administrative review of that placement and provide evidence that
8 the conviction was expunged to the department. Upon receipt of
9 proof that a conviction was expunged, the individual must be
10 removed from the central registry.

11 (5) If the department denies the request to amend a report, a
12 person who is the subject of a report or record made under this
13 section may, within 180 days from the date of service of notice of
14 the right to a hearing, request the department hold a hearing to
15 review the request for amendment.

16 (6) The department must hold a hearing to determine by a
17 preponderance of the evidence whether the report or record in whole
18 or in part meets the statutory requirement of confirmed serious
19 abuse or neglect, confirmed sexual abuse, confirmed sexual
20 exploitation, or confirmed case of methamphetamine production and
21 should be amended or expunged from the central registry. The
22 hearing must be held before an administrative law judge and must be
23 conducted as prescribed by the administrative procedures act of
24 1969, 1969 PA 306, MCL 24.201 to 24.328. The department may, for
25 good cause, hold a hearing under this subsection if the department
26 determines that the person who is the subject of the report or
27 record submitted the request for a hearing within 60 days after the
28 180-day notice period expired.

29 (7) If the investigation of a report conducted under this



1 section does not show serious child abuse or child neglect, sexual
2 abuse, sexual exploitation, or methamphetamine production by a
3 preponderance of the evidence, or if a court dismisses a petition
4 based on the merits of the petition filed under section 2(b) of
5 chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2,
6 because the petitioner has failed to establish, or a court has
7 failed to find, that the child comes within the jurisdiction of the
8 court following an adjudication hearing, the information
9 identifying the subject of the report must be expunged from the
10 central registry after a party has exhausted all appellate remedies
11 and an appellate review does not find that the child is within the
12 jurisdiction of the court. If a preponderance of evidence of child
13 abuse or child neglect exists, or if a court takes jurisdiction of
14 the child under section 2(b) of chapter XIIA of the probate code of
15 1939, 1939 PA 288, MCL 712A.2, the department must maintain the
16 information and must maintain the perpetrator's information in the
17 central registry if the case is determined to be a confirmed case
18 of methamphetamine production, confirmed serious abuse or neglect,
19 confirmed sexual abuse, or confirmed sexual exploitation.

20 (8) Except as otherwise provided in this section, the
21 department must maintain the information in the central registry
22 until the department receives reliable information that the
23 perpetrator is dead. Not more than once every 10 years after an
24 individual has been listed on the registry, the individual may
25 request a hearing regarding removal from the registry. Except for
26 confirmed sexual abuse or confirmed sexual exploitation, the
27 department must hold a hearing to determine whether the information
28 should be maintained on the central registry. The hearing must be
29 held before an administrative law judge and must be conducted as



prescribed by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. In this hearing, the individual is presumed to be a risk to children and the burden of proof is on the individual requesting to be removed from the registry. If the individual demonstrates by a preponderance of the evidence that the presumption is unreasonable, then the information must be expunged from the central registry. The facts and circumstances as determined by the department or an administrative law judge on review of the department's decision that resulted in the individual originally being placed on the central registry are not subject to review. The administrative law judge shall take into account the facts and circumstances in the years since the individual was listed on the central registry that bear on the assessment of the individual's risk to children in the future. For the purpose of this subsection, "reliable information" includes, but is not limited to, information obtained using the United States Social Security death index database.

(9) ~~(1)~~ Upon written request, the department may provide to an individual, or whoever is appropriate, documentation stating that the individual is not named in a central registry case as the perpetrator of child abuse or child neglect. **confirmation of central registry placement to an individual, office, or agency authorized to receive it.**

(10) ~~(2)~~ ~~An individual~~ **A person** or the department may share the document provided in subsection ~~(1)~~ **(9)** with whoever is appropriate for the purpose of seeking employment or serving as a volunteer if that employment or volunteer work will include contact with children.

(11) ~~(3)~~ ~~An employer, a person or agency to~~ **An individual or**



1 **organization for** whom ~~an individual~~ **a person** is applying for
 2 employment, **licensing for a child care organization, or to act as a**
 3 volunteer, ~~agency, may,~~ with appropriate authorization and
 4 identification, ~~from the individual, may request and receive~~
 5 **confirmation of** central registry ~~clearance information~~ **placement,**
 6 if that employment or volunteer work ~~will include~~ **includes** contact
 7 with children.

8 (12) **A parent or other person responsible for a child, who has**
 9 **reason to believe another caregiver may place that child at risk,**
 10 **may, with appropriate authorization and identification, receive**
 11 **confirmation of central registry placement of that parent, person**
 12 **responsible, or caregiver.**

13 (13) ~~(4)~~ The department may develop an automated system that
 14 will allow ~~an individual~~ **a person** applying for child-related
 15 employment or seeking to volunteer in a capacity that would allow
 16 unsupervised access to a child for whom the ~~individual~~ **person** is
 17 not a person responsible for that child's health or welfare to be
 18 listed in that system if a screening of the ~~individual~~ **person** finds
 19 that he or she has not been named in a central registry case as the
 20 perpetrator of ~~child abuse or child neglect.~~ **a confirmed case of**
 21 **methamphetamine production, confirmed serious abuse or neglect,**
 22 **confirmed sexual abuse, or confirmed sexual exploitation.** The
 23 automated system developed under this section ~~shall~~ **must** provide
 24 for public access to the list of ~~individuals~~ **persons** who have been
 25 screened for the purposes of complying with this section. An
 26 automated system developed under this section ~~shall~~ **must** have
 27 appropriate safeguards and procedures to ensure that information
 28 that is confidential under this act, state law, or federal law is
 29 not accessible or disclosed through that system.



(14) An action taken to exclude an individual from licensure to provide foster care, child care, or camp services by the department of licensing and regulatory affairs or the division of child welfare licensing in the department, or a predecessor agency, in effect before the effective date of the amendatory act that added this subsection, must remain in effect according to its terms, except if an individual is successful in an administrative review or appeal of the exclusionary status in accord with section 9 of 1973 PA 116, MCL 722.119.

(15) In addition to the central registry clearance, the department must search children's protective services records to determine if an applicant or licensee, relative, adult member of the household, licensee designee, chief administrator, staff member, or unsupervised volunteer has a children's protective services history before making a licensing or placement determination, or provide clearance for staff employment or a volunteer in a child caring organization.

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. 5276.

(c) House Bill No. 5277.

(d) House Bill No. 5278.

(e) House Bill No. 5534.

