

**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.

4 (3) In addition to a case classified under subsection (2), a
5 court in this state entering an order of conviction for a violation
6 of section 136b of the Michigan penal code, 1931 PA 328, MCL
7 750.136b, a conviction for a violation of chapter LXXVI of the
8 Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520o,
9 involving a minor victim, a conviction for a violation of section
10 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c, and any
11 conviction involving the death of a child must request that the
12 conviction be classified as a central registry case by the
13 department. The department, with cooperation from the state court
14 administrative office, must promulgate rules to regulate this
15 referral process.

16 (4) At any time, an individual who has been placed on the
17 central registry under subsection (3) may request, and the court
18 shall request, an individual's name be removed from the central
19 registry upon the individual prevailing in a motion to the
20 convicting court for the following reasons:

21 (a) The individual was not convicted of an offense listed
22 under this section.

23 (b) Demonstrating that the individual's conviction of the
24 offense that caused the individual to be placed on the central
25 registry has been expunged.

26 (5) Not more than once every 10 years after an individual has
27 been placed on the central registry under subsection (3), the
28 individual may make a motion to the convicting court to request
29 removal from the central registry. In a hearing on this motion, the



1 individual is presumed to be a risk to children, and the burden is
2 on the individual requesting to be removed from the central
3 registry. If the individual demonstrates that the presumption is
4 unreasonable, the court shall request that the department remove
5 the individual from the central registry.

6 (6) Within 30 days after the classification of a central
7 registry case, the department must notify in writing each person
8 who is named in the record as a perpetrator of the confirmed
9 serious abuse or neglect, confirmed sexual abuse, confirmed sexual
10 exploitation, or confirmed case of methamphetamine production. The
11 notice requirements include all of the following:

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

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

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

19 (d) The notice must not identify the person reporting the
20 suspected child abuse or child neglect.

21 (7) An individual who is the subject of a report or record
22 made under this section may request the department amend an
23 inaccurate report or record from the central registry and local
24 office file. This subsection does not apply to an individual for
25 which the court has entered an order of conviction described in
26 subsection (3).

27 (8) If the department denies the request to amend a report, an
28 individual who is the subject of a report or record made under this
29 section may, within 180 days from the date of service of notice of



1 the right to a hearing, request the department hold a hearing to
2 review the request for amendment. This subsection does not apply to
3 an individual for which the court has entered an order of
4 conviction described in subsection (3).

5 (9) The department must hold a hearing to determine by a
6 preponderance of the evidence whether the report or record in whole
7 or in part meets the statutory requirement of confirmed serious
8 abuse or neglect, confirmed sexual abuse, confirmed sexual
9 exploitation, or confirmed case of methamphetamine production and
10 should be amended or expunged from the central registry. The
11 hearing must be held before an administrative law judge and must be
12 conducted as prescribed by the administrative procedures act of
13 1969, 1969 PA 306, MCL 24.201 to 24.328. The department may, for
14 good cause, hold a hearing under this subsection if the department
15 determines that the person who is the subject of the report or
16 record submitted the request for a hearing within 60 days after the
17 180-day notice period expired. This subsection does not apply to an
18 individual for which the court has entered an order of conviction
19 described in subsection (3).

20 (10) If the investigation of a report conducted under this
21 section does not show serious child abuse or child neglect, sexual
22 abuse, sexual exploitation, or methamphetamine production by a
23 preponderance of the evidence, or if a court dismisses a petition
24 based on the merits of the petition filed under section 2(b) of
25 chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2,
26 because the petitioner has failed to establish, or a court has
27 failed to find, that the child comes within the jurisdiction of the
28 court following an adjudication hearing, the information
29 identifying the subject of the report must be expunged from the



1 central registry after a party has exhausted all appellate remedies
2 and an appellate review does not find that the child is within the
3 jurisdiction of the court. If a preponderance of evidence of child
4 abuse or child neglect exists, or if a court takes jurisdiction of
5 the child under section 2(b) of chapter XIIIA of the probate code of
6 1939, 1939 PA 288, MCL 712A.2, the department must maintain the
7 information and must maintain the perpetrator's information in the
8 central registry if the case is determined to be a confirmed case
9 of methamphetamine production, confirmed serious abuse or neglect,
10 confirmed sexual abuse, or confirmed sexual exploitation. This
11 subsection does not apply to an individual for which the court has
12 entered an order of conviction described in subsection (3).

13 (11) Except as otherwise provided in this section, the
14 department must maintain the information in the central registry
15 until the department receives reliable information that the
16 perpetrator is dead. Not more than once every 10 years after an
17 individual has been listed on the central registry, the individual
18 may request a hearing regarding removal from the central registry.
19 Except for confirmed sexual abuse or confirmed sexual exploitation,
20 the department must hold a hearing to determine whether the
21 information should be maintained on 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. In this hearing, the
25 individual is presumed to be a risk to children and the burden of
26 proof is on the individual requesting to be removed from the
27 central registry. If the individual demonstrates by a preponderance
28 of the evidence that the presumption is unreasonable, then the
29 information must be expunged from the central registry. The facts



1 and circumstances as determined by the department or an
 2 administrative law judge on review of the department's decision
 3 that resulted in the individual originally being placed on the
 4 central registry are not subject to review. The administrative law
 5 judge shall take into account the facts and circumstances in the
 6 years since the individual was listed on the central registry that
 7 bear on the assessment of the individual's risk to children in the
 8 future. For the purpose of this subsection, "reliable information"
 9 includes, but is not limited to, information obtained using the
 10 United States Social Security death index database. This subsection
 11 does not apply to an individual for which the court has entered an
 12 order of conviction described in subsection (3).

13 (12) ~~(1) Upon written request, the department may provide to~~
 14 ~~an individual, or whoever is appropriate, documentation stating~~
 15 ~~that the individual is not named in a central registry case as the~~
 16 ~~perpetrator of child abuse or child neglect.~~ **confirmation of central**
 17 **registry placement to an individual, office, or agency authorized**
 18 **to receive it.**

19 (13) ~~(2) An individual~~ **A person** or the department may share
 20 the document provided in subsection ~~(1)~~ **(12)** with whoever is
 21 appropriate for the purpose of seeking employment or serving as a
 22 volunteer if that employment or volunteer work will include contact
 23 with children.

24 (14) ~~(3) An employer, a person or agency to~~ **An individual or**
 25 **organization for** whom ~~an individual~~ **a person** is applying for
 26 employment, **licensing for a child care organization, or to act as a**
 27 volunteer, ~~agency, may,~~ with appropriate authorization and
 28 identification, ~~from the individual, may request and receive~~
 29 **confirmation of central registry clearance information placement,**



1 if that employment or volunteer work ~~will include~~**includes** contact
2 with children.

3 (15) A parent or other person responsible for a child, who has
4 reason to believe another caregiver may place that child at risk,
5 may, with appropriate authorization and identification, receive
6 confirmation of central registry placement of that parent, person
7 responsible, or caregiver. This request must be made through the
8 office of the friend of the court created in section 3 of the
9 friend of the court act, 1982 PA 294, MCL 552.503.

10 (16) ~~(4)~~The department may develop an automated system that
11 will allow ~~an individual~~**a person** applying for child-related
12 employment or seeking to volunteer in a capacity that would allow
13 unsupervised access to a child for whom the ~~individual~~**person** is
14 not a person responsible for that child's health or welfare to be
15 listed in that system if a screening of the ~~individual~~**person** finds
16 that he or she has not been named in a central registry case as the
17 perpetrator of ~~child abuse or child neglect~~**a confirmed case of**
18 **methamphetamine production, confirmed serious abuse or neglect,**
19 **confirmed sexual abuse, or confirmed sexual exploitation.** The
20 automated system developed under this section ~~shall~~**must** provide
21 for public access to the list of ~~individuals~~**persons** who have been
22 screened for the purposes of complying with this section. An
23 automated system developed under this section ~~shall~~**must** have
24 appropriate safeguards and procedures to ensure that information
25 that is confidential under this act, state law, or federal law is
26 not accessible or disclosed through that system.

27 (17) An action taken to exclude an individual from licensure
28 to provide foster care, child care, or camp services by the
29 department of licensing and regulatory affairs or the division of



1 child welfare licensing in the department, or a predecessor agency,
2 in effect before the effective date of the amendatory act that
3 added this subsection, must remain in effect according to its
4 terms, except if an individual is successful in an administrative
5 review or appeal of the exclusionary status in accord with section
6 9 of 1973 PA 116, MCL 722.119.

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

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

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

20 (a) House Bill No. 5274.

21 (b) House Bill No. 5276.

22 (c) House Bill No. 5277.

23 (d) House Bill No. 5278.

24 (e) House Bill No. 5534.

