

Act No. 581
Public Acts of 1996
Approved by the Governor
January 16, 1997
Filed with the Secretary of State
January 17, 1997

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Rep. McManus

Reps. Alley, Bodem, Brackenridge, Bush, Byl, Cassis, Dalman, DeHart, Dobronski, Dolan, Freeman, Galloway, Geiger, Gnodtke, Goschka, Hammerstrom, Horton, Jellema, Jersevic, Johnson, Kaza, Kukuk, McBryde, Middaugh, Middleton, Oxender, Parks, Perricone, Rocca, Ryan, Sikkema, Varga, Voorhees and Wallace named co-sponsors

ENROLLED HOUSE BILL No. 6140

AN ACT to amend section 2 of Act No. 238 of the Public Acts of 1975, entitled as amended "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts," as amended by Act No. 251 of the Public Acts of 1993, being section 722.622 of the Michigan Compiled Laws; and to add section 3a.

The People of the State of Michigan enact:

Section 1. Section 2 of Act No. 238 of the Public Acts of 1975, as amended by Act No. 251 of the Public Acts of 1993, being section 722.622 of the Michigan Compiled Laws, is amended and section 3a is added to read as follows:

Sec. 2. As used in this act:

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

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

(c) "Child abuse" means harm or threatened harm to a child's health or welfare by a parent, legal guardian, or any other person responsible for the child's health or welfare, or by a teacher or teacher's aide, that occurs through nonaccidental physical or mental injury; sexual abuse; sexual exploitation; or maltreatment.

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

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

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

(e) "Controlled substance" means that term as defined in section 7104 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7104 of the Michigan Compiled Laws.

(f) "Department" means the family independence agency.

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

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

(i) "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.

(j) "Person responsible for the child's health or welfare" means a parent, legal guardian, person 18 years of age or older who resides for any length of time in the same home in which the child resides, or an owner, operator, volunteer, or employee of any of the following:

(i) A licensed or unlicensed child care organization as defined in section 1 of Act No. 116 of the Public Acts of 1973, being section 722.111 of the Michigan Compiled Laws.

(ii) A licensed or unlicensed adult foster care family home or adult foster care small group home as defined in section 3 of the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, being section 400.703 of the Michigan Compiled Laws.

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

(l) "Sexual abuse" means engaging in sexual contact or sexual penetration as defined in section 520a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.520a of the Michigan Compiled Laws, with a child.

(m) "Sexual exploitation" includes allowing, permitting, or encouraging a child to engage in prostitution, or allowing, permitting, encouraging, or engaging in the photographing, filming, or depicting of a child engaged in a listed sexual act as defined in section 145c of Act No. 328 of the Public Acts of 1931, being section 750.145c of the Michigan Compiled Laws.

Sec. 3a. In addition to the reporting requirement in section 3, a person who is required to report suspected child abuse or neglect under section 3(1) and who knows, or from the child's symptoms has reasonable cause to suspect, that a newborn infant has any amount of alcohol, a controlled substance, or a metabolite of a controlled substance in his or her body shall report to the department in the same manner as required under section 3. A report is not required under this section if the person knows that the alcohol, controlled substance, or metabolite, or the child's symptoms, are the result of medical treatment administered to the newborn infant or his or her mother.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved _____

Governor.