

# HOUSE BILL No. 5087

September 25, 2001, Introduced by Reps. Hart, Vander Veen, Woronchak, Gilbert, Kowall, Raczkowski, Van Woerkom, Bisbee, Vander Roest, Patterson, Bradstreet, George and Tabor and referred to the Committee on Family and Children Services.

A bill to amend 1975 PA 238, entitled  
"Child protection law,"  
by amending section 2 (MCL 722.622), as amended by 2000 PA 45.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2. As used in this act:

2       (a) "Attorney" means, if appointed to represent a child  
3 under the provisions referenced in section 10, an attorney serv-  
4 ing as the child's legal advocate in the manner defined and  
5 described in section 13a of chapter XIIIA of the probate code of  
6 1939, 1939 PA 288, MCL 712A.13a.

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

1 (c) "Central registry case" means a child protective  
2 services case that the department classifies under sections 8 and  
3 8d as category I or category II. For a child protective services  
4 case that was investigated before July 1, 1999, central registry  
5 case means an allegation of child abuse or neglect that the  
6 department substantiated.

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

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

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

18 (i) Negligent treatment, including the failure to provide  
19 adequate food, clothing, shelter, or medical care. A PARENT'S OR  
20 LEGAL GUARDIAN'S REFUSAL TO ADMINISTER OR CONSENT TO THE ADMINIS-  
21 TRATION OF A PSYCHOTROPIC DRUG TO HIS OR HER CHILD IS NOT A FAIL-  
22 URE TO PROVIDE ADEQUATE MEDICAL CARE.

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

1 (g) "Citizen review panel" means a panel established as  
2 required by section 106 of title I of the child abuse prevention  
3 and treatment act, Public Law 93-247, 42 U.S.C. 5106a.

4 (h) "Controlled substance" means that term as defined in  
5 section 7104 of the public health code, 1978 PA 368, MCL  
6 333.7104.

7 (i) "CPSI system" means the child protective service infor-  
8 mation system, which is an internal data system maintained within  
9 and by the department, and which is separate from the central  
10 registry and not subject to section 7.

11 (j) "Department" means the family independence agency.

12 (k) "Director" means the director of the department.

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

15 (m) "Lawyer-guardian ad litem" means an attorney appointed  
16 under section 10 who has the powers and duties referenced by sec-  
17 tion 10.

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

22 (o) "Nonparent adult" means a person who is 18 years of age  
23 or older and who, regardless of the person's domicile, meets all  
24 of the following criteria in relation to a child:

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

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

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

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

12       (i) A licensed or unlicensed child care organization as  
13 defined in section 1 of 1973 PA 116, MCL 722.111.

14       (ii) A licensed or unlicensed adult foster care family home  
15 or adult foster care small group home as defined in section 3 of  
16 the adult foster care facility licensing act, 1979 PA 218, MCL  
17 400.703.

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

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

25       (s) "Sexual exploitation" includes allowing, permitting, or  
26 encouraging a child to engage in prostitution, or allowing,  
27 permitting, encouraging, or engaging in the photographing,

1 filming, or depicting of a child engaged in a listed sexual act  
2 as defined in section 145c of the Michigan penal code, 1931 PA  
3 328, MCL 750.145c.

4 (t) "Specified information" means information in a central  
5 registry case record that relates specifically to referrals or  
6 reports of child abuse or neglect. Specified information does  
7 not include any of the following:

8 (i) Except as provided in this subparagraph regarding a per-  
9 petrator of child abuse or neglect, personal identification  
10 information for any individual identified in a child protective  
11 services record. The exclusion of personal identification infor-  
12 mation as specified information prescribed by this subparagraph  
13 does not include personal identification information identifying  
14 an individual alleged to have perpetrated child abuse or neglect,  
15 which allegation has been classified 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  
19 as confidential under other law.

20 (u) "Structured decision-making tool" means the department  
21 document labeled "DSS-4752 (P3) (3-95)" or a revision of that  
22 document that better measures the risk of future harm to a  
23 child.

24 (v) "Substantiated" means a child protective services case  
25 classified as a central registry case.

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