

# SENATE BILL No. 460

September 9, 2015, Introduced by Senator BIEDA and referred to the Committee on Families, Seniors and Human Services.

A bill to require the establishment of a vulnerable adult registry; to prescribe the duties and responsibilities of certain state departments and agencies; and to prescribe fees, penalties, and sanctions.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2       "vulnerable adult registry act".

3       Sec. 3. As used in this act:

4       (a) "Convicted" means 1 of the following:

5       (i) Having a judgment of conviction or a probation order  
6       entered in any court having jurisdiction over criminal offenses,  
7       including, but not limited to, a tribal court or a military court,  
8       and including a conviction subsequently set aside under 1965 PA

1 213, MCL 780.621 to 780.624.

2 (ii) Either of the following:

3 (A) Being assigned to youthful trainee status under sections  
4 11 to 15 of chapter II of the code of criminal procedure, 1927 PA  
5 175, MCL 762.11 to 762.15, before October 1, 2004.

6 (B) Being assigned to youthful trainee status under sections  
7 11 to 15 of chapter II of the code of criminal procedure, 1927 PA  
8 175, MCL 762.11 to 762.15, on or after October 1, 2004 if the  
9 individual's status of youthful trainee is revoked and an  
10 adjudication of guilt is entered.

11 (iii) Having an order of disposition entered under section 18  
12 of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL  
13 712A.18, that is open to the general public under section 28 of  
14 chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.28.

15 (iv) Having an order of disposition or other adjudication in a  
16 juvenile matter in another state or country.

17 (b) "Department" means the department of health and human  
18 services.

19 (c) "Vulnerable adult" means that phrase as defined in section  
20 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m.

21 (d) "Vulnerable adult abuse" means an offense under sections  
22 145n to 145p of the Michigan penal code, 1931 PA 328, MCL 750.145n  
23 to 750.145p.

24 (e) "Vulnerable adult abuse registry" or "registry" means the  
25 registry created under section 5.

26 Sec. 5. (1) The department shall establish and maintain a  
27 statewide electronic vulnerable adult abuse registry.

1           (2) If an individual is convicted of vulnerable adult abuse,  
2 the department shall list that individual on the vulnerable adult  
3 abuse registry.

4           (3) The department shall work with the department of  
5 technology, management, and budget and any other entity the  
6 department determines necessary to establish the vulnerable adult  
7 abuse registry.

8           (4) The department shall work with the department of state  
9 police and other law enforcement agencies to establish a reporting  
10 procedure that allows the department to obtain the names and other  
11 necessary information of individuals required to be listed on the  
12 vulnerable adult abuse registry.

13           Sec. 7. (1) Unless made public under a law of this state or a  
14 law of another state, a written report, document, or photograph  
15 filed with the department as provided in this act is a confidential  
16 record available only to 1 or more of the following:

17           (a) A legally mandated public or private agency investigating  
18 a report of known or suspected vulnerable adult abuse or a legally  
19 mandated public or private agency prosecuting a disciplinary action  
20 against its own employee involving vulnerable adult services  
21 records.

22           (b) A police or other law enforcement agency investigating a  
23 report of known or suspected vulnerable adult abuse.

24           (c) A physician who is treating a vulnerable adult whom the  
25 physician reasonably suspects may be abused.

26           (d) A person, agency, or organization, including a  
27 multidisciplinary case consultation team, authorized to diagnose,

1 care for, treat, or supervise a vulnerable adult who is the subject  
2 of a report or record under this act, or a person, agency, or  
3 organization, including a multidisciplinary case consultation team,  
4 that is responsible for the vulnerable adult's health or welfare.

5 (e) A person named in the report or record as a perpetrator or  
6 alleged perpetrator of the vulnerable adult abuse.

7 (f) A court that determines the information is necessary to  
8 decide an issue before the court.

9 (g) A grand jury that determines the information is necessary  
10 to conduct the grand jury's official business.

11 (h) A person, agency, or organization engaged in a bona fide  
12 research or evaluation project. The person, agency, or organization  
13 shall not release information identifying a person named in the  
14 report or record unless that person's written consent is obtained.  
15 The person, agency, or organization shall not conduct a personal  
16 interview with a family without the family's prior consent and  
17 shall not disclose information that would identify the vulnerable  
18 adult or his or her family or other identifying information. The  
19 department director may authorize the release of information to a  
20 person, agency, or organization described in this subdivision if  
21 the release contributes to the purposes of this act and the person,  
22 agency, or organization has appropriate controls to maintain the  
23 confidentiality of personally identifying information for a person  
24 named in a report or record made under this act.

25 (i) Subject to section 11, a standing or select committee or  
26 appropriations subcommittee of either house of the legislature  
27 having jurisdiction over vulnerable adult matters.

1 (j) A county medical examiner or deputy county medical  
2 examiner appointed under 1953 PA 181, MCL 52.201 to 52.216, for the  
3 purpose of carrying out his or her duties under that act.

4 (2) A person or entity to whom information described in  
5 subsection (1) is disclosed shall make the information available  
6 only to a person or entity described in subsection (1). This  
7 subsection does not require a court proceeding to be closed that  
8 otherwise would be open to the public.

9 Sec. 9. (1) Not less than 30 days after the department lists  
10 an individual on the vulnerable adult abuse registry, the  
11 department shall notify in writing the individual listed on the  
12 registry. The notice shall set forth the individual's right to  
13 request expunction of the record and the right to a hearing if the  
14 department refuses the request.

15 (2) A person who is the subject of a report or record made  
16 under this act may request the department to amend an inaccurate  
17 report or record from the registry and local office file. A person  
18 who is the subject of a report or record made under this act may  
19 request the department to expunge from the registry a report or  
20 record in which no relevant and accurate evidence of vulnerable  
21 adult abuse is found to exist. A report or record filed in a local  
22 office file is not subject to expunction except as the department  
23 authorizes, if considered in the vulnerable adult's best interest.

24 (3) If the department refuses a request for amendment or  
25 expunction under subsection (2), or fails to act within 30 days  
26 after receiving the request, the department shall hold a hearing to  
27 determine by a preponderance of the evidence whether the report or

1 record in whole or in part should be amended or expunged from the  
2 registry on the grounds that the report or record is not relevant  
3 or accurate evidence of vulnerable adult abuse. The hearing shall  
4 be held before a hearing officer appointed by the department and  
5 shall be conducted as prescribed by the administrative procedures  
6 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

7 (4) If the investigation of a report conducted under this act  
8 fails to disclose evidence of vulnerable adult abuse, the  
9 information identifying the subject of the report shall be expunged  
10 from the registry. If evidence of abuse exists, the department  
11 shall maintain the information in the registry until the department  
12 receives reliable information that the perpetrator of the  
13 vulnerable adult abuse is dead.

14 (5) In releasing information under this act, the department  
15 shall not include a report compiled by a police agency or other law  
16 enforcement agency related to an ongoing investigation of suspected  
17 vulnerable adult abuse. This subsection does not prevent the  
18 department from releasing reports of convictions of crimes related  
19 to vulnerable adult abuse.

20 (6) An agency obtaining a confidential record under section  
21 7(1)(a) may seek an order from the court having jurisdiction over  
22 the vulnerable adult that allows the agency to disseminate  
23 confidential information to pursue sanctions for alleged  
24 dereliction, malfeasance, or misfeasance of duty against an  
25 employee of the agency, to a recognized labor union representative  
26 of the employee's bargaining unit, or to an arbitrator or an  
27 administrative law judge who conducts a hearing involving the

1 employee's alleged dereliction, malfeasance, or misfeasance of duty  
2 to be used solely in connection with that hearing. Information  
3 released under this subsection shall be released in a manner that  
4 maintains the greatest degree of confidentiality while allowing  
5 review of employee performance.

6       Sec. 11. (1) The department shall make information contained  
7 in the vulnerable adult abuse registry and reports and records made  
8 under this act available to a standing or select committee or  
9 appropriations subcommittee of either house of the legislature  
10 having jurisdiction over protective services matters for vulnerable  
11 adults subject to all of the following:

12       (a) The department shall not provide confidential information  
13 protected by section 7 to the committee unless the committee  
14 members appointed and serving agree by roll call vote that the  
15 information is essential for the protection of Michigan vulnerable  
16 adults or for legislative oversight of the protective services  
17 program and that the confidential information will only be  
18 considered at a closed session of the committee. The affirmative  
19 vote required by this subdivision shall be by not less than the  
20 supermajority required by section 7 of the open meetings act, 1976  
21 PA 267, MCL 15.267, and may serve as the vote required under that  
22 section for holding a closed session.

23       (b) In addition to compliance with the open meetings act, 1976  
24 PA 267, MCL 15.261 to 15.275, a closed session held under this  
25 section shall comply with all of the following:

26       (i) Tape recording, camera, or other electronic equipment for  
27 documenting the proceedings shall not be permitted in the closed

1 session.

2 (ii) Attendance at the closed session shall be limited to  
3 committee members, other members of the legislature and legislative  
4 staff at the discretion of the chairperson, and staff members from  
5 the department designated by the director.

6 (2) A person who discloses or causes to be disclosed  
7 confidential information to which the person has gained access at a  
8 meeting held under this section is guilty of a misdemeanor. A  
9 person who keeps a confidential record or file, or a copy of a  
10 confidential record or file, at the conclusion of a closed session  
11 held under this section, which record or file is obtained at that  
12 meeting, is guilty of a misdemeanor.

13 Sec. 13. (1) Upon written request, the department may provide  
14 to an individual, or whoever is appropriate, documentation stating  
15 that the individual is not named in the vulnerable adult abuse  
16 registry as the perpetrator of vulnerable adult abuse.

17 (2) An individual or the department may share the document  
18 provided in subsection (1) with whoever is appropriate for the  
19 purpose of seeking employment or serving as a volunteer if that  
20 employment or volunteer work will include contact with vulnerable  
21 adults.

22 (3) An employer, a person or agency to whom an individual is  
23 applying for employment, or a volunteer agency, with appropriate  
24 authorization and identification from the individual, may request  
25 and receive vulnerable adult abuse registry clearance information  
26 if that employment or volunteer work will include contact with  
27 vulnerable adults.



1           (4) The department may develop an automated system that lists  
2 individuals who have not been named in the vulnerable adult abuse  
3 registry as the perpetrator of vulnerable adult abuse. An  
4 individual applying for vulnerable adult-related employment or  
5 seeking to volunteer in a capacity that would allow unsupervised  
6 access to a vulnerable adult whose health or welfare the individual  
7 is not responsible for may be listed in that system if a screening  
8 of the individual finds that he or she has not been named in the  
9 vulnerable adult abuse registry as the perpetrator of vulnerable  
10 adult abuse. The automated system developed under this section  
11 shall provide for public access to the list of individuals who have  
12 been screened for the purposes of complying with this section. An  
13 automated system developed under this section shall have  
14 appropriate safeguards and procedures to ensure that information  
15 that is confidential under this act, state law, or federal law is  
16 not accessible or disclosed through that system.

17           Enacting section 1. This act takes effect 90 days after the  
18 date it is enacted into law.