

SENATE BILL No. 397

May 23, 2017, Introduced by Senators JONES, O'BRIEN, SCHUITMAKER, EMMONS,
NOFS, PROOS, MACGREGOR, HORN and MARLEAU and referred to the Committee
on Families, Seniors and Human Services.

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending section 2 (MCL 722.622), as amended by 2016 PA 491.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Adult foster care location authorized to care for a
3 child" means an adult foster care family home or adult foster care
4 small group home as defined in section 3 of the adult foster care
5 facility licensing act, 1979 PA 218, MCL 400.703, in which a child
6 is placed in accordance with section 5 of 1973 PA 116, MCL 722.115.

7 (b) "Attorney" means, if appointed to represent a child under
8 the provisions referenced in section 10, an attorney serving as the
9 child's legal advocate in the manner defined and described in
10 section 13a of chapter XIIIA of the probate code of 1939, 1939 PA

1 288, MCL 712A.13a.

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

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

12 (e) "Centralized intake" means the department's statewide
13 centralized processing center for reports of suspected child abuse
14 and child neglect.

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

16 (g) "Child abuse" means harm or threatened harm to a child's
17 health or welfare that occurs through nonaccidental physical or
18 mental injury, sexual abuse, sexual exploitation, or maltreatment,
19 by a parent, a legal guardian, or any other person responsible for
20 the child's health or welfare or by a teacher, a teacher's aide, or
21 a member of the clergy.

22 (h) "Child care organization" means that term as defined in
23 section 1 of 1973 PA 116, MCL 722.111.

24 (i) "Child care provider" means an owner, operator, employee,
25 or volunteer of a child care organization or of an adult foster
26 care location authorized to care for a child.

27 (j) "Child care regulatory agency" means the department of

1 licensing and regulatory affairs or a successor state department
2 that is responsible for the licensing or registration of child care
3 organizations or the licensing of adult foster care locations
4 authorized to care for a child.

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

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

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

16 (l) "Children's advocacy center" means an entity accredited as
17 a child advocacy center by the National Children's Alliance or its
18 successor agency or an entity granted associate or developing
19 membership status by the National Children's Alliance or its
20 successor agency.

21 (m) "Citizen review panel" means a panel established as
22 required by section 5106a of the child abuse prevention and
23 treatment act, 42 USC 5106a.

24 (n) "Member of the clergy" means a priest, minister, rabbi,
25 Christian science practitioner, or other religious practitioner, or
26 similar functionary of a church, temple, or recognized religious
27 body, denomination, or organization.

1 (o) "Controlled substance" means that term as defined in
2 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

3 (p) "CPSI system" means the child protective service
4 information system, ~~which~~**THAT** is an internal data system
5 maintained within and by the department, and ~~which~~**THAT** is separate
6 from the central registry and not subject to section 7.

7 (q) "Department" means the department of health and human
8 services.

9 (r) "Director" means the director of the department.

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

12 (t) "Lawyer-guardian ad litem" means an attorney appointed
13 under section 10 who has the powers and duties referenced by
14 section 10.

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

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

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

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

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

27 (w) "Online reporting system" means the electronic system

1 established by the department for individuals identified in section
2 3(1) to report suspected child abuse or child neglect.

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

9 (i) A licensed or registered child care organization.

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

13 (iii) A court-operated facility as approved under section 14
14 of the social welfare act, 1939 PA 280, MCL 400.14.

15 **(Y) "PLAN OF SAFE CARE" MEANS A PLAN DEVELOPED BY THE**
16 **DEPARTMENT, A MEDICAL PROFESSIONAL, OR ANOTHER PROVIDER THAT**
17 **ADDRESSES THE HEALTH AND SAFETY NEEDS OF A NEWBORN INFANT, THE**
18 **SUBSTANCE USE DISORDER TREATMENT NEEDS OF THE MOTHER, AND THE**
19 **SERVICE NEEDS OF OTHER CAREGIVERS OR FAMILY MEMBERS.**

20 **(Z) ~~(y)~~**"Relevant evidence" means evidence having a tendency
21 to make the existence of a fact that is at issue more probable than
22 it would be without the evidence.

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

26 **(BB) ~~(aa)~~**"Sexual exploitation" includes allowing, permitting,
27 or encouraging a child to engage in prostitution, or allowing,

1 permitting, encouraging, or engaging in the photographing, filming,
2 or depicting of a child engaged in a listed sexual act as defined
3 in section 145c of the Michigan penal code, 1931 PA 328, MCL
4 750.145c.

5 (CC) ~~(bb)~~ "Specified information" means information in a
6 children's protective services case record related specifically to
7 the department's actions in responding to a complaint of child
8 abuse or child neglect. Specified information does not include any
9 of the following:

10 (i) Except as provided in this subparagraph regarding a
11 perpetrator of child abuse or child neglect, personal
12 identification information for any individual identified in a child
13 protective services record. The exclusion of personal
14 identification information as specified information prescribed by
15 this subparagraph does not include personal identification
16 information identifying an individual alleged to have perpetrated
17 child abuse or child neglect, which allegation has been classified
18 as a central registry case.

19 (ii) Information in a police agency report or other law
20 enforcement agency report as provided in section 7(8).

21 (iii) Any other information that is specifically designated as
22 confidential under other law.

23 (iv) Any information not related to the department's actions
24 in responding to a report of child abuse or child neglect.

25 (DD) ~~(ee)~~ "Structured decision-making tool" means the
26 department document labeled "DSS-4752 (P3) (3-95)" or a revision of
27 that document that better measures the risk of future harm to a

1 child.

2 (EE) ~~(dd)~~ "Substantiated" means a child protective services
3 case classified as a central registry case.

4 (FF) ~~(ee)~~ "Unsubstantiated" means a child protective services
5 case the department classifies under sections 8 and 8d as category
6 III, category IV, or category V.

7 Enacting section 1. This amendatory act takes effect 90 days
8 after the date it is enacted into law.

9 Enacting section 2. This amendatory act does not take effect
10 unless Senate Bill No. 398

11 of the 99th Legislature is enacted into law.