

**SUBSTITUTE FOR
SENATE BILL NO. 289**

A bill to create the child abuse offenders database; to prescribe the powers and duties of certain departments and agencies in connection with that database; to prescribe penalties and sanctions; and to create the child abuse offenders database citizen's advisory panel.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "child
2 abuse offenders database act".

3 Sec. 2. As used in this act:

4 (a) "Child abuse offenders database citizen's advisory panel"
5 or "panel" means the child abuse offenders database citizen's
6 advisory panel created under section 7.

7 (b) "Child abuse offense" means a violation of section

1 136b(2), (3)(a), (5)(a), or (7)(a) of the Michigan penal code, 1931
2 PA 328, MCL 750.136b, or a substantially similar offense under a
3 law of the United States, any state, or any country or under tribal
4 or military law, that is committed by an adult or by a minor who is
5 tried in the same manner as an adult under section 2d of chapter
6 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d.

7 (c) "Convicted" means any of the following:

8 (i) Having a judgment of conviction or a probation order
9 entered in any court having jurisdiction over criminal offenses,
10 including, but not limited to, a tribal court or a military court,
11 other than a conviction subsequently set aside under 1965 PA 213,
12 MCL 780.621 to 780.624.

13 (ii) Either of the following:

14 (A) Being assigned to youthful trainee status under sections
15 11 to 15 of chapter II of the code of criminal procedure, 1927 PA
16 175, MCL 762.11 to 762.15.

17 (B) Being assigned to youthful trainee status under sections
18 11 to 15 of chapter II of the code of criminal procedure, 1927 PA
19 175, MCL 762.11 to 762.15, if the individual's status of youthful
20 trainee is revoked and an adjudication of guilt is entered.

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

25 (d) "Database" means the child abuse offender database created
26 under section 3.

27 (e) "Department" means the department of state police.

28 (f) "Local law enforcement agency" means the police department
29 of a municipality.

1 (g) "Minor" means an individual who is under 18 years of age.

2 (h) "Municipality" means a city, village, or township of this
3 state.

4 Sec. 3. (1) The department shall maintain a computerized
5 database of individuals convicted of child abuse offenses in this
6 state. The database must contain all of the following information
7 for each individual required to be in the database created under
8 that act:

9 (a) The individual's legal name and any aliases, nicknames,
10 ethnic or tribal names, or other names by which the individual is
11 or has been known.

12 (b) The individual's date of birth.

13 (c) The municipality in which the individual resides.

14 (d) A brief summary of the individual's convictions for child
15 abuse offenses regardless of when the conviction occurred.

16 (e) The text of the provision of law that defines the criminal
17 offense resulting in the individual's inclusion in the database.

18 (2) The department shall maintain a public internet website
19 that must contain all of the following information for each
20 individual required to be included in the child abuse offenders
21 database:

22 (a) The individual's legal name and any aliases, nicknames,
23 ethnic or tribal names, or other names by which the individual is
24 or has been known.

25 (b) The individual's date of birth.

26 (c) The municipality in which the individual resides.

27 (d) A brief summary of the individual's convictions for child
28 abuse offenses regardless of when the conviction occurred.

29 (e) The text of the provision of law that defines the criminal

1 offense resulting in the individual's inclusion in the database.

2 (3) The following information must not be made available on
3 the public internet website described in subsection (2):

4 (a) The identity of any victim of the offense.

5 (b) The individual's Social Security number.

6 (c) Any arrests not resulting in a conviction.

7 (d) Any travel or immigration document numbers.

8 (e) Any electronic mail addresses and instant message
9 addresses assigned to the individual or routinely used by the
10 individual and any login names or other identifiers used by the
11 individual when using any electronic mail address or instant
12 messaging system.

13 (f) The individual's driver license number or state personal
14 identification card number.

15 (4) The compilation of individuals in the database and on the
16 public internet website must be indexed alphabetically by village,
17 city, township, and county, numerically by zip code area, and
18 geographically as determined appropriate by the department.

19 (5) The department shall update the public internet website
20 with new inclusions to the database, deletions from the database,
21 and address changes at the same time those changes are made to the
22 database described in subsection (1). The department shall make the
23 database available to each department post, local law enforcement
24 agency, and sheriff's department by the law enforcement information
25 network. Upon request of a department post, local law enforcement
26 agency, or sheriff's department, the department shall provide to
27 that post, agency, or sheriff's department the information from the
28 database in printed or electronic form for the designated areas
29 located in whole or in part within the post's, agency's, or

1 sheriff's department's jurisdiction. The department shall provide
2 the ability to conduct a computerized search of the database and
3 the public internet website based upon an individual's name.

4 (6) The department shall make the public internet website
5 available to the public by electronic, computerized, or other
6 similar means accessible to the public. The electronic,
7 computerized, or other similar means must provide for a search by
8 name, village, city, township, and county designation, zip code,
9 and geographical area.

10 (7) If a court determines that the public availability under
11 this section of any information concerning individuals included in
12 the child abuse offenders database violates the Constitution of the
13 United States or state constitution of 1963, the department shall
14 revise the public internet website described in subsection (2) so
15 that it does not contain that information.

16 (8) If the department determines that an individual is no
17 longer required to be included in the database, the department
18 shall remove the individual's information from both the database
19 and the public internet website within 7 days after making that
20 determination.

21 (9) An individual required to be included in the database must
22 remain on the database and the public internet website as follows:

23 (a) For a violation of section 136b(2), (3) (a), or (5) (a) of
24 the Michigan penal code, 1931 PA 328, MCL 750.136b, or a
25 substantially similar offense under a law of the United States, any
26 state, or any country or under tribal or military law, for 10
27 years.

28 (b) For a violation of section 136b(7) (a) of the Michigan
29 penal code, 1931 PA 328, MCL 750.136b, or a substantially similar

1 offense under a law of the United States, any state, or any country
2 or under tribal or military law, for 5 years.

3 Sec. 5. (1) A department post, local law enforcement agency,
4 or sheriff's department shall make information from the public
5 internet website described in section 3(2) for the designated areas
6 located in whole or in part within the post's, agency's, or
7 sheriff's department's jurisdiction available for public inspection
8 during regular business hours. A department post, local law
9 enforcement agency, or sheriff's department is not required to make
10 a copy of the information for a member of the public.

11 (2) The department shall make information from the public
12 internet website described in section 3(2) available to the public
13 through electronic, computerized, or other accessible means. The
14 department shall provide for notification by electronic or
15 computerized means to any member of the public who has subscribed
16 in a manner required by the department when an individual who is
17 the subject of the public internet website described in section
18 3(2) is initially included in the database, or changes his or her
19 information in the database, to a location that is in a designated
20 area or geographic radius designated by the subscribing member of
21 the public.

22 (3) Except as provided in this act, a person other than the
23 individual included in the database who knows of the individual's
24 inclusion in the database who divulges, uses, or publishes
25 nonpublic information concerning the individual's inclusion in the
26 database in violation of this act is guilty of a misdemeanor
27 punishable by imprisonment for not more than 93 days or a fine of
28 not more than \$1,000.00, or both.

29 (4) An individual whose inclusion in the database is revealed

1 in violation of this act has a civil cause of action against the
2 responsible party for treble damages.

3 (5) Subsections (3) and (4) do not apply to the public
4 internet website described in section 3(2) or information from that
5 public internet website that is provided or made available under
6 section 3(2) or under subsection (1) or (2).

7 Sec. 7. (1) The child abuse offenders database citizen's
8 advisory panel is created within the department. It is the mission
9 of the panel to ensure that the public internet website that
10 displays information from the child abuse offenders database
11 functions to its maximum effectiveness. The panel should provide to
12 the department recommendations on ease of use, layout, and clarity
13 of the information displayed on the public internet website. The
14 panel should also include recommendations to the department for
15 improving the website.

16 (2) The panel consists of the following 5 members:

17 (a) One member appointed by the senate majority leader.

18 (b) One member appointed by the senate minority leader.

19 (c) One member appointed by the speaker of the house of
20 representatives.

21 (d) One member appointed by the minority leader of the house
22 of representatives.

23 (e) One member appointed by the governor.

24 (3) The members of the panel must be appointed not more than
25 90 days after the effective date of this act.

26 (4) Members of the panel shall serve for terms of 4 years.

27 (5) If a vacancy occurs on the panel, the individual under
28 subsection (2) who made the original appointment shall make an
29 appointment for the unexpired term in the same manner as the

1 original appointment.

2 (6) A member of the panel may be removed for incompetence,
3 dereliction of duty, malfeasance, misfeasance, or nonfeasance in
4 office, or any other good cause.

5 (7) A majority of the members of the panel constitute a quorum
6 for the transaction of business at a meeting of the panel. A quorum
7 of the members present and serving are required for official action
8 of the panel.

9 (8) The business that the panel may perform must be conducted
10 at a public meeting of the panel held in compliance with the open
11 meetings act, 1976 PA 267, MCL 15.261 to 15.275.

12 (9) A writing prepared, owned, used, in the possession of, or
13 retained by the panel in the performance of an official function is
14 subject to the freedom of information act, 1976 PA 442, MCL 15.231
15 to 15.246.

16 (10) Members of the panel shall serve without compensation.
17 However, members of the panel may be reimbursed for their actual
18 and necessary expenses incurred in the performance of their
19 official duties as members of the panel.

20 (11) The panel shall do all of the following:

21 (a) Test the database for ease of use by citizens.

22 (b) Provide feedback to the department regarding both of the
23 following aspects of the database:

24 (i) The layout.

25 (ii) The legibility.

26 (c) Provide an opinion to the department on the efficacy of
27 the database.

28 (12) The panel may do 1 or more of the following:

29 (a) Provide feedback and recommendations to the department on

1 ways to improve the user experience.

2 (b) Provide other general feedback and recommendations to the
3 department regarding the database.

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

6 Enacting section 2. This act must be known and may be cited as
7 "Wyatt's Law".