

# SENATE BILL NO. 289

April 30, 2019, Introduced by Senators HERTEL, BIZON, LUCIDO, ANANICH, BRINKS, BULLOCK, GEISS, RUNESTAD, ALEXANDER, BAYER, WOJNO, MCMORROW, POLEHANKI and HOLLIER and referred to the Committee on Judiciary and Public Safety.

A bill to create the child abuse offenders registry; to prescribe the powers and duties of certain departments and agencies in connection with that registry; and to prescribe 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 "child  
2 abuse offenders registry act".

3           Sec. 2. As used in this act:

4           (a) "Child abuse offense" means any violation of section 136b

1 of the Michigan penal code, 1931 PA 328, MCL 750.136b (child  
2 abuse), or a substantially similar offense under a law of the  
3 United States, any state, or any country or under tribal or  
4 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 (b) "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 (c) "Department" means the department of state police.

26 (d) "Institution of higher education" means 1 or more of the  
27 following:

28 (i) A public or private community college, college, or  
29 university.

1           (ii) A public or private trade, vocational, or occupational  
2 school.

3           (e) "Local law enforcement agency" means the police department  
4 of a municipality.

5           (f) "Minor" means a person who is under 18 years of age.

6           (g) "Municipality" means a city, village, or township of this  
7 state.

8           (h) "Registering authority" means the local law enforcement  
9 agency or sheriff's office having jurisdiction over the person's  
10 residence, place of employment, or institution of higher learning,  
11 or the nearest department post designated to receive or enter child  
12 abuse offender registration information within a registration  
13 jurisdiction.

14           (i) "Registration jurisdiction" means each of the 50 states,  
15 the District of Columbia, the Commonwealth of Puerto Rico, Guam,  
16 the Northern Mariana Islands, the United States Virgin Islands,  
17 American Samoa, and the Indian tribes within the United States that  
18 elect to function as a registration jurisdiction.

19           (j) "Residence", for registration and voting purposes, means  
20 the place where a person habitually sleeps, keeps his or her  
21 personal effects, and has a regular place of lodging. If a person  
22 has more than 1 residence, or if a person has a residence separate  
23 from that of his or her spouse, the place where the person resides  
24 the greater part of the time is his or her official residence for  
25 the purposes of this act. If a person is homeless or otherwise  
26 lacks a fixed or temporary residence, residence means the village,  
27 city, or township where the person spends a majority of his or her  
28 time. This section must not be construed to affect existing  
29 judicial interpretation of the term residence.

1 (k) "Student" means a person enrolled on a full- or part-time  
2 basis in a public or private educational institution, including,  
3 but not limited to, a secondary school, trade school, professional  
4 institution, or institution of higher education.

5 Sec. 3. (1) The department shall maintain a computerized law  
6 enforcement database of registrations and notices required under  
7 the child abuse offenders registration act. The law enforcement  
8 database must contain all of the following information for each  
9 person registered under that act:

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

13 (b) The person's Social Security number and any Social  
14 Security numbers or alleged Social Security numbers previously used  
15 by the person.

16 (c) The person's date of birth and any alleged dates of birth  
17 previously used by the person.

18 (d) The address where the person resides or will reside. If  
19 the person does not have a residential address, information under  
20 this subsection must identify the location or area used or to be  
21 used by the person in lieu of a residence or, if the person is  
22 homeless, the village, city, or township where the person spends or  
23 will spend the majority of his or her time.

24 (e) The name and address of any place of temporary lodging  
25 used or to be used by the person during any period when the person  
26 is away, or is expected to be away, from his or her residence for  
27 more than 7 days. Information under this subdivision must include  
28 the dates the lodging is used or to be used.

29 (f) The name and address of each of the person's employers.

1 For purposes of this subdivision, "employer" includes a contractor  
2 and any person who has agreed to hire or contract with the person  
3 for his or her services. Information under this subsection must  
4 include the address or location of employment if it differs from  
5 the address of the employer.

6 (g) The name and address of any school being attended by the  
7 person and any school that has accepted the person as a student  
8 that he or she plans to attend. For purposes of this subdivision,  
9 "school" means a public or private postsecondary school or school  
10 of higher education, including a trade school.

11 (h) All telephone numbers registered to the person or  
12 routinely used by the person.

13 (i) All electronic mail addresses and instant message  
14 addresses assigned to the person or routinely used by the person.

15 (j) A digital copy of the person's passport and other  
16 immigration documents.

17 (k) The person's occupational and professional licensing  
18 information, including any license that authorizes the person to  
19 engage in any occupation, profession, trade, or business.

20 (l) A brief summary of the person's convictions for child abuse  
21 offenses regardless of when the conviction occurred, including  
22 where the offense occurred and the original charge if the  
23 conviction was for a lesser offense.

24 (m) A complete physical description of the person.

25 (n) The photograph required under section 7 of the child abuse  
26 offender registration act.

27 (o) The person's fingerprints and palm prints.

28 (p) An electronic copy of the person's Michigan driver license  
29 or Michigan personal identification card, including the photograph

1 required under section 7 of the child abuse offenders registration  
2 act.

3 (q) The text of the provision of law that defines the criminal  
4 offense for which the person is registered.

5 (r) Any outstanding arrest warrant information.

6 (s) The person's registration status.

7 (t) An identifier that indicates whether a DNA sample has been  
8 collected and any resulting DNA profile has been entered into the  
9 federal Combined DNA Index System (CODIS).

10 (u) The person's complete criminal history record, including  
11 the dates of all arrests and convictions.

12 (v) The person's Michigan department of corrections number and  
13 the status of his or her parole, probation, or release.

14 (w) The person's Federal Bureau of Investigation number.

15 (2) The department shall maintain a public internet website  
16 separate from the law enforcement database described in subsection  
17 (1) to implement section 5(2) and (3). The public internet website  
18 must contain all of the following information for each person  
19 registered under the child abuse offenders registration act:

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

23 (b) The person's date of birth.

24 (c) The address where the person resides. If the person does  
25 not have a residential address, information under this subsection  
26 must identify the village, city, or township used by the person in  
27 lieu of a residence.

28 (d) The address of each of the person's employers. For  
29 purposes of this subdivision, "employer" includes a contractor and

1 any person who has agreed to hire or contract with the person for  
2 his or her services. Information under this subsection must include  
3 the address or location of employment if it differs from the  
4 address of the employer.

5 (e) The address of any school being attended by the person and  
6 any school that has accepted the person as a student that he or she  
7 plans to attend. For purposes of this subdivision, "school" means a  
8 public or private postsecondary school or school of higher  
9 education, including a trade school.

10 (f) A brief summary of the person's convictions for child  
11 abuse offenses regardless of when the conviction occurred.

12 (g) A complete physical description of the person.

13 (h) The photograph required under section 7 of the child abuse  
14 offenders registration act. If no photograph is available, the  
15 department shall use an arrest photograph or Michigan department of  
16 corrections photograph until a photograph as prescribed in section  
17 7 of the child abuse offenders registration act becomes available.

18 (i) The text of the provision of law that defines the criminal  
19 offense for which the person is registered.

20 (j) The person's registration status.

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

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

24 (b) The person's Social Security number.

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

26 (d) Any travel or immigration document numbers.

27 (e) Any electronic mail addresses and instant message  
28 addresses assigned to the person or routinely used by the person  
29 and any login names or other identifiers used by the person when

1 using any electronic mail address or instant messaging system.

2 (f) The person's driver license number or state personal  
3 identification card number.

4 (4) The compilation of persons must be indexed alphabetically  
5 by village, city, township, and county, numerically by zip code  
6 area, and geographically as determined appropriate by the  
7 department.

8 (5) The department shall update the public internet website  
9 with new registrations, deletions from registrations, and address  
10 changes at the same time those changes are made to the law  
11 enforcement database described in subsection (1). The department  
12 shall make the law enforcement database available to each  
13 department post, local law enforcement agency, and sheriff's  
14 department by the law enforcement information network. Upon request  
15 of a department post, local law enforcement agency, or sheriff's  
16 department, the department shall provide to that post, agency, or  
17 sheriff's department the information from the law enforcement  
18 database in printed or electronic form for the designated areas  
19 located in whole or in part within the post's, agency's, or  
20 sheriff's department's jurisdiction. The department shall provide  
21 the ability to conduct a computerized search of the law enforcement  
22 database and the public internet website based upon the name and  
23 campus location of an institution of higher education.

24 (6) The department shall make the law enforcement database  
25 available to a department post, local law enforcement agency, or  
26 sheriff's department by electronic, computerized, or other similar  
27 means accessible to the post, agency, or sheriff's department. The  
28 department shall make the public internet website available to the  
29 public by electronic, computerized, or other similar means



1 accessible to the public. The electronic, computerized, or other  
2 similar means must provide for a search by name, village, city,  
3 township, and county designation, zip code, and geographical area.

4 (7) If a court determines that the public availability under  
5 section 5 of any information concerning persons registered under  
6 the child abuse offenders registration act violates the  
7 Constitution of the United States or state constitution of 1963,  
8 the department shall revise the public internet website described  
9 in subsection (2) so that it does not contain that information.

10 (8) If the department determines that a person has completed  
11 his or her registration period or that he or she otherwise is no  
12 longer required to register under the child abuse offenders  
13 registration act, the department shall remove the person's  
14 registration information from both the law enforcement database and  
15 the public internet website within 7 days after making that  
16 determination.

17 Sec. 4. (1) If a person fails to register or to update his or  
18 her registration information as required under the child abuse  
19 offenders registration act, the local law enforcement agency,  
20 sheriff's office, or department post responsible for registering  
21 the person or for verifying and updating his or her registration  
22 information shall do all of the following immediately after the  
23 date the person was required to register or to update his or her  
24 registration information:

25 (a) Determine whether the person has absconded or is otherwise  
26 unlocatable.

27 (b) If the registering authority was notified by a  
28 registration jurisdiction that the person was to appear in order to  
29 register or update his or her registration information in the

1 jurisdiction of the registering authority, notify the department in  
2 a manner prescribed by the department that the person failed to  
3 appear as required.

4 (c) Revise the information in the registry to reflect that the  
5 person has absconded or is otherwise unlocatable.

6 (d) Seek a warrant for the person's arrest if the legal  
7 requirements for obtaining a warrant are satisfied.

8 (e) Enter the person into the National Crime Information  
9 Center wanted person file if the requirements for entering  
10 information into that file are met.

11 (2) If a person fails to register or to update his or her  
12 registration information as required under the child abuse  
13 offenders registration act, the department shall do all of the  
14 following immediately after being notified by the registering  
15 authority that the person failed to appear as required:

16 (a) Notify that other registration jurisdiction that the  
17 person failed to appear as required.

18 (b) Notify the United States Marshal's Service in the manner  
19 required by the United States Marshal's Service of the person's  
20 failure to appear as required.

21 Sec. 5. (1) Except as provided in this act, a registration or  
22 report is confidential and information from that registration or  
23 report must not be open to inspection except for law enforcement  
24 purposes. The registration or report and all included materials and  
25 information are exempt from disclosure under section 13 of the  
26 freedom of information act, 1976 PA 442, MCL 15.243.

27 (2) A department post, local law enforcement agency, or  
28 sheriff's department shall make information from the public  
29 internet website described in section 3(2) for the designated areas

1 located in whole or in part within the post's, agency's, or  
2 sheriff's department's jurisdiction available for public inspection  
3 during regular business hours. A department post, local law  
4 enforcement agency, or sheriff's department is not required to make  
5 a copy of the information for a member of the public.

6 (3) The department shall make information from the public  
7 internet website described in section 3(2) available to the public  
8 through electronic, computerized, or other accessible means. The  
9 department shall provide for notification by electronic or  
10 computerized means to any member of the public who has subscribed  
11 in a manner required by the department when a person who is the  
12 subject of the public internet website described in section 3(2)  
13 initially registers under the child abuse offenders registration  
14 act, or changes his or her registration under that act, to a  
15 location that is in a designated area or geographic radius  
16 designated by the subscribing member of the public.

17 (4) Except as provided in this act, a person other than the  
18 registrant who knows of a registration or report under the child  
19 abuse offenders registration act and who divulges, uses, or  
20 publishes nonpublic information concerning the registration or  
21 report in violation of this act is guilty of a misdemeanor  
22 punishable by imprisonment for not more than 93 days or a fine of  
23 not more than \$1,000.00, or both.

24 (5) A person whose registration or report is revealed in  
25 violation of this act has a civil cause of action against the  
26 responsible party for treble damages.

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

1 section 3(2) or under subsection (2) or (3).

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

4 Enacting section 2. This act does not take effect unless  
5 Senate Bill No. 290 of the 100th Legislature is enacted into law.

6 Enacting section 3. This act must be known and may be cited as  
7 "Wyatt's Law".