

**SUBSTITUTE FOR
HOUSE BILL NO. 5275**

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending section 7j (MCL 722.627j), as amended by 2010 PA 81.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7j. (1) The department must maintain a statewide,
2 electronic case management system to carry out the intent of this
3 act. The department may enter into vendor contracts that it
4 considers necessary and proper for implementation, review, and
5 update of the electronic case management system. The department
6 must solicit proposals from entities to provide the services
7 necessary to implement, review, and update the electronic case
8 management system.

9 (2) The department must classify a confirmed case of

1 methamphetamine production, confirmed serious abuse or neglect,
2 confirmed sexual abuse, or confirmed sexual exploitation, as a
3 central registry case. Upon request from any law enforcement agency
4 in this state, the department must classify a felony conviction for
5 a violation of section 136b of the Michigan penal code, 1931 PA
6 328, MCL 750.136b, a conviction for a violation of chapter LXXVI of
7 the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520o,
8 involving a minor victim, a conviction for a violation of section
9 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c, and any
10 conviction involving the death of a child as a central registry
11 case.

12 (3) Within 30 days after the classification of a central
13 registry case, the department must notify in writing each person
14 who is named in the record as a perpetrator of the confirmed
15 serious abuse or neglect, confirmed sexual abuse, confirmed sexual
16 exploitation, or confirmed case of methamphetamine production. The
17 notice requirements include all of the following:

18 (a) The notice must be sent by registered or certified mail,
19 return receipt requested, and delivery restricted to the addressee.

20 (b) The notice must set forth the person's right to request
21 expunction of the record and the right to a hearing if the
22 department refuses the request.

23 (c) The notice must state that the record may be released
24 under section 7d.

25 (d) The notice must not identify the person reporting the
26 suspected child abuse or child neglect.

27 (4) A person who is the subject of a report or record made
28 under this section may request the department amend or expunge an
29 inaccurate report or record from the central registry and local

1 office file.

2 (5) If the department denies the request to amend or expunge a
3 report, a person who is the subject of a report or record made
4 under this section may, within 180 days from the date of service of
5 notice of the right to a hearing, request the department hold a
6 hearing to review the request for amendment or expunction.

7 (6) The department must hold a hearing to determine by a
8 preponderance of the evidence whether the report or record in whole
9 or in part meets the statutory requirement of confirmed serious
10 abuse or neglect, confirmed sexual abuse, confirmed sexual
11 exploitation, or confirmed case of methamphetamine production and
12 should be amended or expunged from the central registry. The
13 hearing must be held before an administrative law judge and must be
14 conducted as prescribed by the administrative procedures act of
15 1969, 1969 PA 306, MCL 24.201 to 24.328. The department may, for
16 good cause, hold a hearing under this subsection if the department
17 determines that the person who is the subject of the report or
18 record submitted the request for a hearing within 60 days after the
19 180-day notice period expired.

20 (7) If the investigation of a report conducted under this
21 section does not show serious child abuse or child neglect, sexual
22 abuse, sexual exploitation, or methamphetamine production by a
23 preponderance of the evidence, or if a court dismisses a petition
24 based on the merits of the petition filed under section 2(b) of
25 chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2,
26 because the petitioner has failed to establish, or a court has
27 failed to find, that the child comes within the jurisdiction of the
28 court following an adjudication hearing, the information
29 identifying the subject of the report must be expunged from the

1 central registry after a party has exhausted all appellate remedies
2 and an appellate review does not find that the child is within the
3 jurisdiction of the court. If a preponderance of evidence of child
4 abuse or child neglect exists, or if a court takes jurisdiction of
5 the child under section 2(b) of chapter XIIIA of the probate code of
6 1939, 1939 PA 288, MCL 712A.2, the department must maintain the
7 information and must maintain the perpetrator's information in the
8 central registry if the case is determined to be a confirmed case
9 of methamphetamine production, confirmed serious abuse or neglect,
10 confirmed sexual abuse, or confirmed sexual exploitation.

11 (8) Except as otherwise provided in this section, the
12 department must maintain the information in the central registry
13 until the department receives reliable information that the
14 perpetrator is dead. Not more than once every 10 years after an
15 individual has been listed on the registry, the individual may
16 request a hearing regarding removal from the registry. Except for
17 confirmed sexual abuse or confirmed sexual exploitation, the
18 department must hold a hearing to determine whether the information
19 should be maintained on the central registry. The hearing must be
20 held before an administrative law judge and must be conducted as
21 prescribed by the administrative procedures act of 1969, 1969 PA
22 306, MCL 24.201 to 24.328. In this hearing, the individual is
23 presumed to be a risk to children and the burden of proof is on the
24 individual requesting to be removed from the registry. If the
25 individual demonstrates by a preponderance of the evidence that the
26 presumption is unreasonable, then the information must be expunged
27 from the central registry. The facts and circumstances as
28 determined by the department or an administrative law judge on
29 review of the department's decision that resulted in the individual

1 originally being placed on the central registry are not subject to
2 review. The administrative law judge shall take into account the
3 facts and circumstances in the years since the individual was
4 listed on the central registry that bear on the assessment of the
5 individual's risk to children in the future. For the purpose of
6 this subsection, "reliable information" includes, but is not
7 limited to, information obtained using the United States Social
8 Security death index database.

9 (9) ~~(1) Upon written request, the department may provide to an~~
10 ~~individual, or whoever is appropriate, documentation stating that~~
11 ~~the individual is not named in a central registry case as the~~
12 ~~perpetrator of child abuse or child neglect.~~ **confirmation of central**
13 **registry placement to an individual, office, or agency authorized**
14 **to receive it.**

15 (10) ~~(2) An individual~~ **A person** or the department may share
16 the document provided in subsection ~~(1)~~ **(9)** with whoever is
17 appropriate for the purpose of seeking employment or serving as a
18 volunteer if that employment or volunteer work will include contact
19 with children.

20 (11) ~~(3) An employer, a person or agency to~~ **An individual or**
21 **organization for** whom ~~an individual~~ **a person** is applying for
22 employment, **licensing for a child care organization, or to act as a**
23 volunteer, ~~agency, may,~~ with appropriate authorization and
24 identification, ~~from the individual, may request and receive~~
25 **confirmation of** central registry ~~clearance information~~ **placement,**
26 if that employment or volunteer work ~~will include~~ **includes** contact
27 with children.

28 (12) **A parent or other person responsible for a child, who has**
29 **reason to believe another caregiver may place that child at risk,**

1 may, with appropriate authorization and identification, receive
2 confirmation of central registry placement of that parent, person
3 responsible, or caregiver.

4 (13) ~~(4)~~—The department may develop an automated system that
5 will allow ~~an individual~~ **a person** applying for child-related
6 employment or seeking to volunteer in a capacity that would allow
7 unsupervised access to a child for whom the ~~individual~~ **person** is
8 not a person responsible for that child's health or welfare to be
9 listed in that system if a screening of the ~~individual~~ **person** finds
10 that he or she has not been named in a central registry case as the
11 perpetrator of ~~child abuse or child neglect~~. **a confirmed case of**
12 **methamphetamine production, confirmed serious abuse or neglect,**
13 **confirmed sexual abuse, or confirmed sexual exploitation.** The
14 automated system developed under this section ~~shall~~ **must** provide
15 for public access to the list of ~~individuals~~ **persons** who have been
16 screened for the purposes of complying with this section. An
17 automated system developed under this section ~~shall~~ **must** have
18 appropriate safeguards and procedures to ensure that information
19 that is confidential under this act, state law, or federal law is
20 not accessible or disclosed through that system.

21 (14) An action taken to exclude an individual from licensure
22 to provide foster care, child care, or camp services by the
23 department of licensing and regulatory affairs or the division of
24 child welfare licensing in the department, or a predecessor agency,
25 in effect before the effective date of the amendatory act that
26 added this subsection, must remain in effect according to its
27 terms, except if an individual is successful in an administrative
28 review or appeal of the exclusionary status in accord with section
29 9 of 1973 PA 116, MCL 722.119.

1 (15) In addition to the central registry clearance, the
2 department must search children's protective services records to
3 determine if an applicant or licensee, relative, adult member of
4 the household, licensee designee, chief administrator, staff
5 member, or unsupervised volunteer has a children's protective
6 services history before making a licensing or placement
7 determination, or provide clearance for staff employment or a
8 volunteer in a child caring organization.

9 Enacting section 1. This amendatory act takes effect 180 days
10 after the date it is enacted into law.

11 Enacting section 2. This amendatory act does not take effect
12 unless all of the following bills of the 101st Legislature are
13 enacted into law:

14 (a) House Bill No. 5274.

15 (b) House Bill No. 5276.

16 (c) House Bill No. 5277.

17 (d) House Bill No. 5278.

18 (e) House Bill No. 5534.