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**LEGAL BASE**

The following federal and state laws are the legal basis for Children's Protective Services (CPS) in Michigan:

**Federal Law**

Social Security Act, Title IV, Part A, Sec. 402(a)

Federal Indian Child Welfare Act, Public Law 95-608 25 USC Sub-section 1901-1952

The Preventing Sex Trafficking and Strengthening Families Act, P.L. 113-183

Trafficking Victims Protection Act

**State Social  
Welfare Laws**

1939 PA 280 (MCL 400.115b and 400.55(h))

**State Child  
Protection Law  
(CPL)**

1975 PA 238 (MCL 722.621 et seq.)

**State Child Care  
Organization  
Licensing Law**

1973 PA 116 (MCL 722.111 - 722.128)

**Juvenile Code**

1939 PA 288 (MCL 712A.1 et seq.)

**Public Health Code**

1978 PA 368 (MCL 333.17001 et seq.)

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## LEGAL DEFINITIONS

### Amendment

A change in case record or central registry information such as case name, address, code, case number, etc., including any change to correct inaccurate information.

### Basis-in-Fact

Direct, personal knowledge on the part of the reporting person that is specific and concrete and reasonably indicates harm or threatened harm to a child's health or welfare.

### Central Registry

A repository of names of individuals who are identified as perpetrators related to a central registry case in the department's statewide electronic case management system.

### Central Registry Case

A central registry case means the department classified a case as confirmed serious abuse or neglect, confirmed sexual abuse, confirmed sexual exploitation, and/or confirmed methamphetamine production.

### Child

An individual under 18 years of age.

### Indian Child, Indian Child's tribe

#### *Indian Child*

An unmarried person who is under the age of 18 and is either of the following:

- A member of an Indian tribe.
- Eligible for membership in an Indian tribe as determined by that tribe.

***Indian Child's Tribe***

The Indian tribe in which an Indian child is a member or eligible for membership. In the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian child's tribe is the tribe which the Indian child has the most significant contacts.

**Child Abuse**

Harm or threatened harm to a child's health or welfare that occurs through nonaccidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment by a parent, a legal guardian, any other person responsible for the child's health or welfare or by a teacher, a teacher's aide, a member of clergy, or an individual 18 years of age or older who is involved with a youth program.

**Child Care  
Organization**

Defined in 1973 PA 116 (MCL 722.111 to 722.128) and includes child care centers, nursery schools, parent cooperative preschools, foster family homes, foster family group homes, children's therapeutic group homes, child care homes, child caring institutions, child placing agencies, children's camps, and children's campsites.

**Child Care  
Provider**

An owner, operator, employee, or volunteer of a child care organization or of an adult foster care location authorized to care for a child.

**Child Neglect**

Harm or threatened harm to a child's health or welfare by a parent, legal guardian, or any other person responsible for the child's health or welfare that occurs through either of the following:

- Negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care, though financially able to do so, or by the failure to seek financial or other reasonable

means to provide adequate food, clothing, shelter, or medical care.

- Placing a child at an unreasonable risk to the child's health or welfare by failure of the parent, legal guardian, or any other person responsible for the child's health or welfare to intervene to eliminate that risk when that person is able to do so and has, or should have, knowledge of the risk.

**Threatened Harm**

An action, inaction or credible verbal threat by a person responsible and absent intervention, there is a high probability that harm will occur.

**Children's  
Protective  
Services**

Program services designed to rectify conditions which threaten the health and safety of children due to the actions or inactions of those responsible for their care. These services include investigation of a child abuse/neglect referral; determination of the facts of danger to the child and immediate steps to remove the danger; providing or arranging for needed services for the family and child; and when appropriate, initiation of legal action to protect the child.

**Commencement**

Any activity taken to begin an investigation.

**Confirmed Case**

The department has determined, by a preponderance of evidence, that child abuse or child neglect occurred by a person responsible for the child's health, welfare, or care. A confirmed case is also referred to as a substantiated case.

**Confirmed Case of  
Methamphetamine  
Production**

A confirmed case that involved a child's exposure or contact with methamphetamine production.

**Confirmed Serious  
Abuse or Neglect**

A confirmed case of mental injury or physical injury or neglect to a child that involves any of the following:

- Battering, torture, or other serious physical harm.
- Loss or serious impairment of an organ or limb.
- Life-threatening injury.
- Murder or attempted murder.
- Serious mental harm.

**Confirmed Sexual  
Abuse**

A confirmed case that involves sexual penetration, sexual contact, attempted sexual penetration, or assault with intent to penetrate as those terms are defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a.

**Confirmed Sexual  
Exploitation**

A confirmed case that involves allowing, permitting, or encouraging a child to engage in prostitution, or allowing, permitting, encouraging, or engaging in the photographing, filming, or depicting of a child engaged in a listed sexual act as that term is defined in section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

**Criminal History  
Check**

A fingerprint-based criminal history check through the department of state police and the Federal Bureau of Investigation.

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**Criminal History  
Record  
Information**

Name; date of birth; personal descriptions including identifying marks, scars, amputations, and tattoos; aliases and prior names; social security number, driver's license number, and other identifying numbers; and information on misdemeanor arrests and convictions and felony arrests and convictions.

**Dating  
Relationship**

Frequent, intimate associations primarily characterized by the expectation of affectional involvement. A dating relationship does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

**Domestic Violence**

A pattern of coercive control perpetrated against one or more intimate partners. Behaviors can include sexual abuse, physical violence, threats, intimidation, financial control, possessiveness and isolation, among others. The abuse may continue after a couple has separated or is no longer living together and often directly involves, targets and impacts the children in the family.

**Electronic Case  
Record**

All information and documents related to a specific case or person that are stored in an electronic case management system.

**Electronic Case  
Management  
System**

The system that supports a workflow, management collaboration, storage of images and content, decision formulation, and processing of electronic files or cases.

**Exploitation**

Improper use of a child for one's own profit or advantage.

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**Expunge**

To physically remove or eliminate and destroy a record or report.

**False Complaint**

A false allegation of child abuse or neglect made knowingly by an individual to the department. A person who knowingly makes a false report of child abuse or neglect may be charged with a misdemeanor if the false report was for an alleged misdemeanor offense. If the false report was for an alleged felony offense of child abuse and neglect, then the person may be charged with a felony.

**Five Category  
Disposition**

The five dispositions for CPS investigations are:

**Category V** - A category V classification means the department determined there was no evidence of child abuse or child neglect and services are not needed.

**Note:** A category V case may also indicate there is insufficient evidence to confirm or deny allegations for a family that cannot be located.

**Category IV** - A category IV classification means the department determined there was not a preponderance of evidence of child abuse or child neglect, but services are recommended. The department must assist the child's family in locating and voluntarily participating in community-based services relevant to the needs of the family and risk to the child as identified in the risk assessment.

**Category III** - A category III classification means that the department determined there is a preponderance of evidence of child abuse or child neglect, and the risk assessment tool indicated low or moderate risk of future harm to the child. The department must assist the child's family in receiving community-based services relevant to the needs of the family and risk to the child. If the family does not voluntarily participate in services or fails to make progress to reduce the risk level, the department must consider reclassifying the case as category II.

**Category II** - A category II classification means the department determined there is a preponderance of evidence of child abuse or

child neglect, and the risk assessment tool indicated high or intensive risk of future harm to the child. The department must open a protective services case and provide the services necessary to rectify the conditions that led to a preponderance of evidence.

**Category I** - A category I classification means the department determined there is a preponderance of evidence of child abuse or child neglect and one or more of the following is true:

- A court petition is required under the Child Protection Law (MCL 722.628d, 722.637, and 722.638).
- The child is not safe and a petition for removal is needed.
- CPS previously classified the case as category II, and the child's family did not voluntarily participate in services.
- There is a violation, involving the child, of a crime listed or described in section 8a(1)(b), (c), (d) or (f) or of child abuse in the first or second degree as prescribed in section 136b of the Michigan Penal Code, 1931 PA 328, MCL 750.136b.

For more information on petition requirements, see [PSM 715-3, Family Court: Petitions, Hearings and Court Orders](#).

In category I cases where the child remains in the home, protective services must open a case and provide services to the family. In category I cases where any child is removed and placed outside of the home, the case must be transferred to foster care for services and monitoring.

### **Extended Family Network**

Includes the nuclear family with the non-custodial parent, extended or blended family, and other adults viewed as family who have an active role in the functioning of the child's family. These adults may or may not reside in the immediate area.

### **Human Trafficking**

#### ***Sex trafficking victim***

An individual subject to the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the



purposes of a commercial sex act through the use of force, fraud, or coercion, or in which the person induced to perform the act is under 18 years of age. Trafficking may also involve an exchange of goods or psychological responses.

***Labor trafficking victim***

An individual subject to the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

**Intimate Partner**

A spouse, a former spouse, an individual with whom the individual has a child in common, an individual with whom the individual has or had a dating relationship, or an individual residing or having resided in the same household.

**Local Office CPS File**

The system used to keep a record of written report, document, or photograph files with and maintained by a county or a regionally based office of the department.

**Members of the  
Clergy**

A priest, minister, rabbi, Christian Science practitioner, spiritual leader, or other religious practitioner, or similar functionary of a church, temple, spiritual community, or recognized religious body, denomination, or organization.

**Medical  
Practitioner**

A medical practitioner is one of the following:

- A physician or physician's assistant licensed or authorized to practice under part 170 or 175 of the public health code, MCL 333.17001 to 333.17088 and MCL 333.17501 to 333.17556.
- A nurse practitioner licensed or authorized to practice under section 172 of the public health code, MCL 333.17210.

**Mental Health  
Practitioner**

A psychiatrist, psychologist, or psychiatric social worker including a licensed master's social worker, licensed bachelor's social worker, or registered social work technician (under 1978 PA 368, as amended) who has successfully completed a psychiatric social service practicum.

**Mental Health  
Professional**

An individual who is trained and experienced in the area of mental illness or developmental disabilities and who is one of the following, MCL 333.1100b(19)(a-f):

- A physician.
- A psychologist.
- A registered professional nurse licensed or otherwise authorized to engage in the practice of nursing under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242.
- A licensed master's social worker licensed or otherwise authorized to engage in the practice of social work at the master's level under part 185 of the public health code, 1978 PA 368, MCL 333.18501 to 333.18518.
- A licensed professional counselor licensed or otherwise authorized to engage in the practice of counseling under part 181 of the public health code, 1978 PA 368, MCL 333.18101 to 333.18117.
- A marriage and family therapist licensed or otherwise authorized to engage in the practice of marriage and family therapy under part 169 of the public health code, 1978 PA 368, MCL 333.16901 to 333.16915.

**Non-offending  
Caretaker**

In domestic violence cases, the non-offending caretaker/adult survivor is defined as the adult living in the home who has NOT been found to be abusive to the children. In all other CA/N cases, the non-offending caretaker is any other adult residing in the home who has not been found to be abusive or neglectful.

**Perpetrator  
Notification**

A notification to individuals whose name has been entered on central registry for a criminal conviction, confirmed case of serious abuse or neglect, confirmed sexual exploitation, confirmed sexual abuse, or confirmed methamphetamine production. This also includes notice to individuals identified as a perpetrator in a confirmed case who are not placed on central registry. All perpetrator notices inform individuals of their rights to review the record and request amendment or expungement.

**Person  
Responsible For  
The Child's Health  
Or Welfare**

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

- A licensed or registered child care organization.
- A licensed or unlicensed adult foster care family home or adult foster care small group home as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.
- A court-operated facility as approved under section 14 of the social welfare act, 1939 PA 280, MCL 400.14.

***Non-parent Adult***

A person who is 18 years of age or older and who, regardless of the person's domicile, meets all the following criteria in relation to the child (MCL 722.622):

- Has substantial and regular contact with the child.
- Has a close personal relationship with the child's parent or with a person responsible for the child's health or welfare.
- Is not the child's parent or a person otherwise related to the child by blood or affinity to the third degree.

**Note:** Third degree relatives include parents, grandparents, great-grandparents, brothers, sisters, aunts, uncles, great-aunts, great-uncles, nieces, and nephews.

**Note:** A nonparent adult who resides in any home where a child is receiving respite care.

**Note:** This includes nonparent adults residing with a child when the referral involves sexual exploitation (human trafficking).

### Power of Attorney

A written, signed document authorizing another person to act as one's agent for specific purposes for a limited period of time. (As an example, a parent leaves a child in the care of a neighbor while the parent is on vacation and leaves a written statement that, during that vacation period, the neighbor may consent to any needed surgery or medical treatment for the child.) Court action is not necessary for a power of attorney and a power of attorney is not equivalent to an order of guardianship.

### Preponderance Of Evidence

Evidence which is of greater weight or more convincing than evidence which is offered in opposition to it.

### Referral

Written or verbal communication to the department of an allegation of child abuse or neglect. The term referral in the Children's Protective Services manual (PSM) is interchangeable with the term report in the Child Protection Law.

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**Relative**

A relative is defined as an individual who is at least 18 years of age and related to the child within the fifth degree by blood, marriage, or adoption, including the spouse of an individual related to the child within the fifth degree, even after the marriage has ended by death or divorce, the parent who shares custody of a half-sibling, and the parent of a man whom the court has found probable cause to believe is the putative father if there is no man with legally established rights to the child.

A relative is also defined as an individual who is at least 18 years of age and not related to a child within the fifth degree by blood, marriage, or adoption but who has a strong positive emotional tie or role in the child's life or the child's parent's life if the child is an infant, as determined by the department or, if the child is an Indian child, as determined solely by the Indian child's tribe. As used in this section, Indian child and Indian child's tribe mean those terms as defined in section 3 of chapter XIIB; see [NAA 215, Placement/Replacement Priorities for Indian Child\(ren\)](#).

**Relevant Evidence**

Evidence having a tendency to make the existence of a fact that is at issue more probable than it would be without the evidence.

**Respite**

Respite care is a licensed alternative placement providing planned relief to primary caregivers from the demands of ongoing care for an individual whose health and welfare would be jeopardized if left unattended. Respite care does not include incidental visits with an alternate caregiver such as sleep overs or incidental visits with a grandparent or other relatives, family, and friends.

**Severe Physical  
Injury/Serious  
Physical Harm**

Severe physical injury means serious physical harm to a child, as defined in MCL 750.136b. Serious physical harm means any physical injury that seriously impairs the child's health or physical well-being, including but not limited to, brain damage, a skull or

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bone fracture, subdural hemorrhage or hematoma, dislocation, sprain, internal injury, poisoning, burn or scald, or severe cut.

**Serious Mental  
Harm**

As defined in MCL 750.136b, injury to a child's mental condition or welfare that is not necessarily permanent but results in visibly demonstrated manifestations of a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

**Specified  
Information**

Information in a CPS case record related specifically to the department's actions in responding to a referral of CA/N regulated by the CPL.

**Unconfirmed Case**

A case that is not substantiated.

**Unrelated  
Caregiver**

An adult who is not related to a child by blood, marriage, or adoption; who is willing and able to best meet the needs of the child, and safeguard the child from risk of harm to the child's life, physical health and/or mental well-being.

**Youth Program**

Events or activities designed for participation by minors and supervised by program employees or volunteers outside the presence of a parent or guardian.