
LEGAL BASE

The following federal and state laws are the legal base for Children's Protective Services 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

**State Social
Welfare Laws**

1939 PA 280 (MCL 400.115b, 400.55(h) and 400.56(c))

**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.)

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.

**American Indian,
American Indian
Child, American
Indian Tribe
(formerly Native
American)**

See NAA 100 through NAA 615 for the definitions of American Indian, American Indian child, and American Indian tribe.

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
Case/
Substantiated
Case**

A central registry/substantiated case is any case that the department determines that a preponderance of evidence of child abuse and/neglect occurred and any one of the following:

- The case is classified as Category I or II (Section 8 and 8d of the CPL). (See Five Category Disposition.)
- The perpetrator is a nonparent adult who resides outside the child's home (Section 8d(3)(4) of the CPL).
- The perpetrator is a licensed foster parent (Section 8d(3)(4) of the CPL).
- The perpetrator is an owner, operator, volunteer or employee of a licensed or registered child care organization (Section 8d(3)(4) of the CPL).
- A CPS case that was investigated before July 1, 1999 and the disposition of the complaint was "substantiated."

Child

A person under 18 years of age.

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, or any other person responsible for the child's health or welfare or by a teacher, a teacher's aide, or a member of clergy.

**Child
Abuse/Neglect
Central Registry
(CA/NCR or central
registry)**

The system maintained by the department that is used to keep record of all reports filed with the department under the CPL in which a preponderance of relevant and accurate evidence of child abuse or neglect is found to exist (substantiated case) (Section 2(c) of the CPL) and contains:

- Historical Registry - list of complaints entered on central registry prior to 8-1-92, which identifies perpetrators who have not been provided written notification of their names having been placed on central registry.
- Perpetrator Registry - list of perpetrators who have been provided written notification of their names having been placed on central registry.

**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 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.

- 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.

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 complaint; 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.

Complaint

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

Domestic Violence

A pattern of assaultive and coercive behaviors, including physical, sexual and psychological attacks, as well as economic coercion, that adults or adolescents use against their intimate partners.

Exploitation

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

Expunge

To eliminate electronically stored information or to remove and destroy reports, records, documents and materials.

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 is guilty of 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 is guilty of a felony.

Five Category Disposition

The five dispositions for CPS investigations are:

Category V - services not needed. This category is used in cases in which CPS is unable to locate the family, **no** evidence of child abuse and/or neglect (CA/N) is found, or the Family Division of Circuit Court is petitioned to order family cooperation during the investigation but declines, and the family will not cooperate with CPS. Further response by the department is not required.

Category IV - community services recommended. Following a field investigation, the department determines that there is not a preponderance of evidence of CA/N. The department **must** assist the child's family in voluntarily participating in community-based services commensurate with the risk to the child.

Category III - community services needed. The department determines that there is a preponderance of evidence of child abuse or neglect, and the structured decision-making tool (risk assessment) indicates a low or moderate risk of future harm to the child. The department **must** assist the child's family in receiving community-based services commensurate with the risk to the child. The person who harmed the child is not listed on central registry. If the family does not voluntarily participate in the services, or fails to make progress in reducing the risk of further harm to the child, the department may reclassify the case as category II if the child's safety indicates a need for CPS intervention.

Exception: If there is a finding of preponderance of evidence of CA/N and the perpetrator is any of the following, the perpetrator must be identified on central registry, even when the SDM risk for the household is determined to be low or moderate:

- Licensed foster parent.
- Nonparent adult who resides outside the child's home.
- Owner, operator, volunteer or employee of a licensed or registered child care organization.
- Owner, operator, volunteer or employee of a licensed or unlicensed adult foster care family home or adult foster care small group home.

Category II - children's protective services required. The department determines that there is a preponderance of evidence of CA/N, and the structured decision-making tool (risk assessment) indicates a high or intensive risk of future harm to the child. CPS **MUST:**

- Open a protective services case.
- Provide services.
- List the perpetrator of the CA/N on the central registry, either by name or as "unknown," if the perpetrator has not been identified.

Category I - court petition required - CPS determines that there is a preponderance of evidence of CA/N and 1 or more of the following is true:

- A court petition is required by the Child Protection Law.
- 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 does not voluntarily participate in services and court intervention is needed to ensure the family participates in services to ameliorate issues which place the child at risk of imminent harm.
- 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. (See CPF 718-5, CPS Appendix F-The Michigan Penal Code for a listing of these violations of the penal code.)

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.

Local Office CPS File

The compilation of documents maintained at the local office that pertain to a CPS complaint. It is the intent of the Child Protection Law that the CPS file include all reports, documents and materials

pertaining to the CPS investigation of a complaint and to the services provided to the child and the family.

**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.

**Non-offending
Caretaker**

In domestic violence cases, the "non-offending caretaker" is defined as the "adult victim" 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**

Notification to an individual that his/her name has been entered on the perpetrator registry of central registry, advising him/her who has access to the registry and record, and informing him/her of his/her rights to review the record and challenge it.

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

A person responsible for a child's health or welfare is any of the following:

- A parent, legal guardian, or person 18 years of age or older who resides for any length of time in the same house in which the child resides.
- A nonparent adult. A nonparent adult is a person 18 years of age or older and who, regardless of the person's domicile, meets **all** of the following criteria in relation to the child:
 - Has substantial and regular contact with the child.
 - Has a close personal relationship with the child's parent or with another 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 (parent, grandparent, great-grandparent, brother, sister, aunt, uncle, great aunt, great uncle, niece, nephew).
- 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 complaint involves sexual exploitation (human trafficking).

- An owner, operator, volunteer, or employee of 1 or more of the following:
 - A licensed or registered child care organization as defined in Section 1 of 1973 PA 116 (MCL 722.111).
 - 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).
 - Child Care Organization or Institutional Setting.

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 may leave a child in the care of a neighbor while the parent is on vacation and may leave 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.

Relative

As defined in MCL 712A.13a(j), relative means an individual who is at least 18 years of age and related to the child by blood, marriage, or adoption, as grandparent, great-grandparent, great-great-grandparent, aunt or uncle, great-aunt or great-uncle, great-great-aunt or great-great-uncle, sibling, stepsibling, nephew or niece, first cousin or first cousin once removed, and the spouse of any of the above, even after the marriage has ended by death or divorce. A stepparent, ex-stepparent, or the parent who shares custody of a half-sibling shall be considered a relative for the purpose of placement. Notification to the stepparent, ex-stepparent, or the parent who shares custody of a half-sibling is required as described in section 4a of the foster care and adoption services act, 1994 PA 203, MCL 722.954a. A child may be placed with 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 placement with the parent of a putative father under this subdivision is not to be construed as a finding of paternity or to confer legal standing on the putative father.

Relative/Unrelated Caregiver Care (Formerly Kinship Care)

The full-time nurturing and protection of children when they must be separated from the nuclear family and be cared for by a non-custodial parent, relatives, grandparents, stepparents or other unrelated

adults who have a bond with a child. Relative/unrelated caregiver care arrangements may be made between and among family members or, alternatively, may involve child welfare agencies. Relative/unrelated caregiver care is unique because of the nature of this type of care, the capacity to provide family continuity, the role of relative/unrelated caregiver care as part of a child welfare service, and relationships between relative/unrelated caregiver care, family preservation, out-of-home placements, and permanency.

Non-court Ward Relative/Unrelated Caregiver Placement

occurs when the family decides the children can safely live with a non-custodial parent, relative, or unrelated caregiver. In this arrangement, a social worker may be involved in helping family members plan for the child, but a child welfare agency does not assume legal custody of, or responsibility for, the child.

Court Ward Relative/Unrelated Caregiver Placement

involves placing children in relative/unrelated caregiver care as a result of a determination by the court and CPS that a child must be separated from his or her parent(s) because of abuse, neglect, drug dependency, abandonment, imprisonment, or special medical circumstances. The court places the child in the legal custody of the child welfare agency or authorizes legal guardianship with relatives or unrelated caregivers, and the relative/unrelated caregiver placement provides the full-time care, protection, and nurturing that the child needs.

Referral

Information which is transmitted from a department CPS staff person to another person, agency or unit.

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.

Severe Physical Injury

An injury to the child that requires medical treatment or hospitalization **and** that seriously impairs the child's health or physical well-being.

Sexual Abuse

Engaging in sexual contact or sexual penetration with a child, as defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a.

**Sexual
Exploitation**

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 defined in section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

**Specified
Information**

Information in a CPS case record that relates specifically to the department's actions in responding to a complaint of CA/N regulated by Section 7 of the CPL. Certain information is not considered specified information. See Section 2(y) of the CPL.

**Unrelated
Caregiver
(Formerly Fictive
Kin)**

Adults who are not related to a child by blood, marriage, or adoption who have a psychological/emotional bond with the child and are identified as "family" as a result of their active role in the functioning of the nuclear family.

**Unsubstantiated
Case**

CPS case the department classifies under Sections 8 and 8d as Category III, IV or V. (**Exception:** Category III cases in which the perpetrator is a nonparent adult who resides outside the child's home, a licensed foster parent or an owner, operator, volunteer, or employee of a licensed or registered child care organization are substantiated cases [Section 8d(3)(4) of the CPL]).