(b) The child's parents are divorced, separated under a judgment of separate maintenance, or have had their marriage annulled.

(c) The child's parent who is a child of the grandparents is deceased.

(d) The child's parents have never been married, they are not residing in the same household, and paternity has been established by the completion of an acknowledgment of parentage under the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013, by an order of filiation entered under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, or by a determination by a court of competent jurisdiction that the individual is the father of the child.

(e) Except as otherwise provided in subsection (13), legal custody of the child has been given to a person other than the child's parent, or the child is placed outside of and does not reside in the home of a parent.

(f) In the year preceding the commencement of an action under subsection (3) for grandparenting time, the grandparent provided an established custodial environment for the child as described in section 7, whether or not the grandparent had custody under a court order.

(2) A court shall not permit a parent of a father who has never been married to the child's mother to seek an order for grandparenting time under this section unless the father has completed an acknowledgment of parentage under the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013, an order of filiation has been entered under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, or the father has been determined to be the father by a court of competent jurisdiction. The court shall not permit the parent of a putative father to seek an order for grandparenting time unless the putative father has provided substantial and regular support or care in accordance with the putative father's ability to provide the support or care.

(3) A grandparent seeking a grandparenting time order shall commence an action for grandparenting time, as follows:

(a) If the circuit court has continuing jurisdiction over the child, the child's grandparent shall seek a grandparenting time order by filing a motion with the circuit court in the county where the court has continuing jurisdiction.

(b) If the circuit court does not have continuing jurisdiction over the child, the child's grandparent shall seek a grandparenting time order by filing a complaint in the circuit court for the county where the child resides.

(4) All of the following apply to an action for grandparenting time under subsection (3):

(a) The complaint or motion for grandparenting time filed under subsection (3) shall be accompanied by an affidavit setting forth facts supporting the requested order. The grandparent shall give notice of the filing to each person who has legal custody of, or an order for parenting time with, the child. A party having legal custody may file an opposing affidavit. A hearing shall be held by the court on its own motion or if a party requests a hearing. At the hearing, parties submitting affidavits shall be allowed an opportunity to be heard.

(b) In order to give deference to the decisions of fit parents, it is presumed in a proceeding under this subsection that a fit parent's decision to deny grandparenting time does not create a substantial risk of harm to the child's mental, physical, or emotional health. To rebut the presumption created in this subdivision, a grandparent filing a complaint or motion under this section must prove by a preponderance of the evidence that the parent's decision to deny grandparenting time creates a substantial risk of harm to the child's mental, physical, or emotional health. If the grandparent does not overcome the presumption, the court shall dismiss the complaint or deny the motion.

(c) If a court of appellate jurisdiction determines in a final and nonappealable judgment that the burden of proof described in subdivision (b) is unconstitutional, a grandparent filing a complaint or motion under this section must prove by clear and convincing evidence that the parent's decision to deny grandparenting time creates a substantial risk of harm to the child's mental, physical, or emotional health to rebut the presumption created in subdivision (b).

(5) If 2 fit parents sign an affidavit stating that they both oppose an order for grandparenting time, the court shall dismiss a complaint or motion seeking an order for grandparenting time filed under subsection (3). This subsection does not apply if 1 of the fit parents is a stepparent who adopted a child under the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, and the grandparent seeking the order is the natural or adoptive parent of a parent of the child who is deceased or whose parental rights have been terminated.

(6) If the court finds that a grandparent has met the standard for rebutting the presumption described in subsection (4), the court shall consider whether it is in the best interests of the child to enter an order for grandparenting time. If the court finds by a preponderance of the evidence that it is in the best interests of the child to enter a grandparenting time order, the court shall enter an order providing for reasonable grandparenting time of the child by the grandparent by general or specific terms and conditions. In determining the best interests of the child under this subsection, the court shall consider all of the following:

(a) The love, affection, and other emotional ties existing between the grandparent and the child.

(b) The length and quality of the prior relationship between the child and the grandparent, the role performed by the grandparent, and the existing emotional ties of the child to the grandparent.

(c) The grandparent's moral fitness.

(d) The grandparent's mental and physical health.

(e) The child's reasonable preference, if the court considers the child to be of sufficient age to express a preference.

(f) The effect on the child of hostility between the grandparent and the parent of the child.

(g) The willingness of the grandparent, except in the case of abuse or neglect, to encourage a close relationship between the child and the parent or parents of the child.

(h) Any history of physical, emotional, or sexual abuse or neglect of any child by the grandparent.

(i) Whether the parent's decision to deny, or lack of an offer of, grandparenting time is related to the child's well-being or is for some other unrelated reason.

(j) Any other factor relevant to the physical and psychological well-being of the child.

(7) If the court has determined that a grandparent has met the standard for rebutting the presumption described in subsection (4), the court may refer that grandparent's complaint or motion for grandparenting time filed under subsection (3) to domestic relations mediation as provided by supreme court rule. If the complaint or motion is referred to the friend of the court mediation service and no settlement is reached through friend of the court mediation within a reasonable time after the date of referral, the complaint or motion shall be heard by the court as provided in this section.

(8) A grandparent may not file more than once every 2 years, absent a showing of good cause, a complaint or motion under subsection (3) seeking a grandparenting time order. If the court finds there is good cause to allow a grandparent to file more than 1 complaint or motion under this section in a 2-year period, the court shall allow the filing and shall

consider the complaint or motion. Upon motion of a person, the court may order reasonable attorney fees to the prevailing party.

(9) The court shall not enter an order prohibiting an individual who has legal custody of a child from changing the domicile of the child if the prohibition is primarily for the purpose of allowing a grandparent to exercise the rights conferred in a grandparenting time order entered under this section.

(10) A grandparenting time order entered under this section does not create parental rights in the individual or individuals to whom grandparenting time rights are granted. The entry of a grandparenting time order does not prevent a court of competent jurisdiction from acting upon the custody of the child, the parental rights of the child, or the adoption of the child.

(11) A court shall not modify or terminate a grandparenting time order entered under this section unless it finds by a preponderance of the evidence, on the basis of facts that have arisen since entry of the grandparenting time order or were unknown to the court at the time it entered that order, that a change has occurred in the circumstances of the child or his or her custodian and that a modification or termination of the existing order is necessary to avoid creating a substantial risk of harm to the mental, physical, or emotional health of the child. A court modifying or terminating a grandparenting time order under this subsection shall include specific findings of fact in its order in support of its decision.

(12) The court shall make a record of its analysis and findings under subsections (4), (6), (8), and (11), including the reasons for granting or denying a requested grandparenting time order.

(13) Except as otherwise provided in this subsection, adoption of a child or placement of a child for adoption under the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, terminates the right of a grandparent to commence an action for grandparenting time with that child. Adoption of a child by a stepparent under the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, does not terminate the right of a grandparent to commence an action for grandparenting time with that child.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

[No. 543]

(SB 978)

AN ACT to amend 1993 PA 331, entitled "An act to provide for the levy and collection of a state education tax; to provide for the distribution of the tax; and to prescribe the duties of certain local officials and state officers," by amending section 5b (MCL 211.905b), as added by 2004 PA 108.

The People of the State of Michigan enact:

211.905b City or township in which no property taxes collected.

Sec. 5b. (1) This section applies only to a city or township, or that portion of a city or township, in which no property taxes, other than the following, are levied in the summer of 2003 and any summer after 2003:

(a) The tax levied under this act.

(b) Village taxes.

(c) Beginning in the summer of 2005, that portion of the number of mills allocated to a county by a county tax allocation board or authorized for a county through a separate tax limitation vote, if that portion of the number of mills allocated to a county by a county tax allocation board or authorized for a county through a separate tax limitation vote were not levied before the summer of 2005.

(2) A city or township shall collect the tax levied under this act unless, before November 1, 2002, the legislative body of the city or township adopts a resolution declining to collect the tax levied under this act and, for a township, the treasurer concurs in writing with that resolution. Before November 1, 2002, if the city or township adopts a resolution declining to collect the tax under this act and, for a township, the treasurer concurs in writing with that resolution, the appropriate assessing officer shall send a copy of that resolution and, for a township, that concurrence to the state treasurer and the treasurer of the county in which the city or township is located. In January 2004 and each January thereafter, the legislative body of a city or township that has declined to collect the tax under this subsection may by resolution adopted by a majority of the legislative body rescind the earlier decision to decline to collect the tax. The city or township shall immediately send a copy of the resolution rescinding the earlier decision to decline to collect the tax to the state treasurer and the treasurer of the county in which the city or township is located. If a city or township collects the tax levied under this act pursuant to this section, that city or township shall retain $2.50 for each parcel of property in that city or township on which the tax levied under this act is billed under this section from the tax collected under this act before transmitting the tax collected as provided in this act.

(3) A county that receives a copy of a resolution declining to collect the tax under this act and, for a township, a written concurrence as provided in subsection (2) shall collect the tax levied under this act pursuant to this section unless, before February 1, 2003, the county board of commissioners adopts a resolution declining to collect the tax levied under this act and the county treasurer concurs in writing with that resolution. Before February 1, 2003, if the county board of commissioners adopts a resolution declining to collect the tax under this act and the county treasurer concurs in writing with that resolution, the county treasurer shall send a copy of that resolution and that concurrence to the state treasurer. In February 2004 and each February thereafter, a county board of commissioners that has declined to collect the tax under this subsection may by resolution, with the written concurrence of the county treasurer, rescind the earlier decision to decline to collect the tax. The county treasurer shall immediately send a copy of the resolution rescinding the earlier decision to decline to collect the tax and the written concurrence of the county treasurer to the state treasurer. If a county collects the tax levied under this act pursuant to this section, that county shall retain $2.50 for each parcel for property in that county on which the tax levied under this act is billed under this section from the tax collected under this act before transmitting the tax collected under this act to the state treasurer as provided in this act.

(4) If a city or township does not collect the tax levied under this act pursuant to subsection (2) and if a county does not collect the tax levied under this act pursuant to subsection (3), the state treasurer shall collect the tax under the provisions of the general property tax act. The collection of the tax levied under this act is not subject to 1941 PA 122, MCL 205.1 to 205.31. The tax levied under this act collected pursuant to this subsection is subject to a 1% administration fee.

(5) All of the following apply to the collection of the tax levied under this act by a county treasurer or the state treasurer:

(a) Not later than June 1, the township or city for which the tax is being collected shall deliver to the county treasurer or the state treasurer, as applicable, a certified copy of

each assessment roll for taxable property located in the township or city. Each assessment roll shall include the taxable value of each parcel subject to the collection of the tax levied under this act. The county treasurer or state treasurer, as applicable, shall remit the necessary cost incident to the reproduction of the assessment roll to the township or city.

(b) Not later than June 30, the county treasurer or the state treasurer, as applicable, shall spread the millage levied under this act against the assessment roll and prepare the tax roll.

(c) The county treasurer or the state treasurer, as applicable, may impose all or a portion of the fees and charges authorized under section 44 of the general property tax act, 1893 PA 206, MCL 211.44, on taxes paid before March 1. The county treasurer or the state treasurer, as applicable, shall retain the fees and charges imposed under this subdivision regardless of whether all or part of the fees and charges have been waived by the township or city.

(6) In relation to the assessment, spreading, and collection of taxes pursuant to this section, a county treasurer or the state treasurer, as applicable, shall have powers and duties similar to those prescribed by the general property tax act for township supervisors, township clerks, and township treasurers. However, this section shall not be considered to transfer any authority over the assessment of property.

(7) A county treasurer or state treasurer collecting taxes pursuant to this section shall be bonded for tax collection in the same amount and in the same manner as a township treasurer would be for undertaking the duties prescribed by this section.

(8) If a county treasurer or the state treasurer collects the tax levied under this act pursuant to this section, all payments from this state for collecting the tax levied under this act in a summer levy, and all revenue generated by the administration fee, shall be deposited in a restricted account designated as the "state education tax collection account". The county treasurer or the state treasurer, as applicable, shall direct the investment of the account. The county treasurer or the state treasurer, as applicable, shall credit to the account interest and earnings from the account investments. Proceeds in that account shall only be used for the cost of collecting the tax levied under this act. For a county collecting the tax under this act, the county board of commissioners shall appropriate sufficient money from the account to the county treasurer to cover the cost of collecting the tax levied under this act.

(9) The tax levied under this act that is collected by a city pursuant to this section on a date other than a date it collects city taxes shall be subject to the same fees and charges a city may impose under section 44 of the general property tax act, 1893 PA 206, MCL 211.44, except that a city may impose the administration fee on the tax levied under this act that is billed in the summer even if the fee is not imposed on taxes billed in December. The tax levied under this act that is collected pursuant to this section on or before September 14 of each year by a city that collects school taxes on a date other than the date it collects city taxes shall be without interest, but the tax levied under this act that is collected after September 14 in each year shall bear interest at the rate imposed by section 59 of the general property tax act, 1893 PA 206, MCL 211.59, on delinquent property tax levies that become a lien in the same year. All interest and penalties that are imposed prior to the date the tax levied under this act is returned as delinquent, other than the administration fee, shall be transmitted to the state treasurer for deposit into the state school aid fund established in section 11 of article IX of the state constitution of 1963. If imposed, the administration fee shall be retained by the city.

(10) The tax levied under this act that is collected by a township on or before September 14 in each year shall be without interest. The tax levied under this act that is collected after September 14 of any year shall bear interest at the rate imposed by section 59 of the general property tax act, 1893 PA 206, MCL 211.59, on delinquent property tax

levies that become a lien in the same year. The tax levied under this act that is collected by a township is subject to the same fees and charges the township may impose under section 44 of the general property tax act, 1893 PA 206, MCL 211.44, except that a township may impose the administration fee on the tax levied under this act that is billed in the summer even if the fee is not imposed on taxes billed in December. All interest and penalties that are imposed prior to the date the tax levied under this act is returned delinquent, other than the administration fee, shall be transmitted to the state treasurer for deposit into the state school aid fund established in section 11 of article IX of the state constitution of 1963. If imposed, the administration fee shall be retained by the township.

(11) For taxes levied after December 31, 2003, not later than June 1 of each year, the county treasurer shall deliver to the state treasurer a statement of the total amount of the state education tax levy of the prior year not returned delinquent that was collected by the county treasurer and collected and remitted to the county treasurer by each city or township treasurer, together with a statement for the county and for each city or township of the number of parcels from which the state education tax was collected, the number of parcels for which the state education tax was billed, and the total amount retained by the county treasurer and by the city or township treasurer as permitted by subsections (2) and (3).

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

[No. 544]

(SB 1103)

AN ACT to amend 1933 PA 167, entitled "An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 25 (MCL 205.75), as amended by 2003 PA 139.

The People of the State of Michigan enact:

205.75 Disposition of money received and collected.

Sec. 25. (1) All money received and collected under this act shall be deposited by the department in the state treasury to the credit of the general fund, except as otherwise provided in this section.

(2) Fifteen percent of the collections of the tax imposed at a rate of 4% shall be distributed to cities, villages, and townships pursuant to the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921.

(3) Sixty percent of the collections of the tax imposed at a rate of 4% shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963 and distributed as provided by law. In addition, all of the collections of the tax imposed at the additional rate of 2% approved by the electors March 15, 1994 shall be deposited in the state school aid fund.

(4) For the fiscal year ending September 30, 1988 and each fiscal year ending after September 30, 1988, of the 25% of the collections of the general sales tax imposed at a rate

of 4% directly or indirectly on fuels sold to propel motor vehicles upon highways, on the sale of motor vehicles and on the sale of the parts and accessories of motor vehicles by new and used car businesses, used car businesses, accessory dealer businesses, and gasoline station businesses as classified by the department of treasury remaining after the allocations and distributions are made pursuant to subsections (2) and (3), the following amounts shall be deposited each year into the respective funds:

(a) Through the fiscal year ending September 30, 2003 and for the fiscal year ending September 30, 2006 and each fiscal year ending after September 30, 2006, not less than 27.9% to the comprehensive transportation fund. For the fiscal year ending September 30, 2004 and, except as otherwise provided in this subdivision, for the fiscal year ending September 30, 2005, not less than 24% to the comprehensive transportation fund. For the fiscal year ending September 30, 2005 only, the amount deposited to the comprehensive transportation fund under this subdivision shall be reduced by $10,000,000.00.

(b) The balance to the state general fund.

(5) After the allocations and distributions are made pursuant to subsections (2) and (3), an amount equal to the collections of the tax imposed at a rate of 4% under this act from the sale at retail of computer software as defined in section 1 shall be deposited in the Michigan health initiative fund created in section 5911 of the public health code, 1978 PA 368, MCL 333.5911, and shall be considered in addition to, and is not intended as a replacement for any other money appropriated to the department of public health. The funds deposited in the Michigan health initiative fund on an annual basis shall not be less than $9,000,000.00 or more than $12,000,000.00.

(6) The balance in the state general fund shall be disbursed only on an appropriation or appropriations by the legislature.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

[No. 545]

(SB 1148)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 43536a (MCL 324.43536a), as amended by 2003 PA 4.

The People of the State of Michigan enact:

324.43536a Person stationed outside state; lottery not required; validity; "member of the military" defined.

Sec. 43536a. (1) A member of the military may obtain any license under this part for which a lottery is not required for $1.00 upon presentation to a licensing agent of leave

papers, duty papers, military orders, or other evidence acceptable to the department verifying that he or she is stationed outside of this state. The license is valid for a period of up to 2 weeks designated by the member of the military but only during the season in which such a license would otherwise be valid.

(2) As used in this section, "member of the military" means either of the following:

(a) A person described by section 43506(3)(d) who is stationed outside this state.

(b) A person who meets all of the following requirements:

(*i*) The person is a reserve component soldier, sailor, airman, or marine or member of the Michigan national guard and is called to federal active duty.

(*ii*) At the time the person was called to federal active duty, he or she was a resident of this state.

(*iii*) The person is stationed outside this state.

(*iv*) The person has maintained his or her residence in this state for the purpose of obtaining a driver license or voter registration, or both.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

[No. 546]

(SB 1181)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 32607 (MCL 324.32607), as added by 2000 PA 278.

The People of the State of Michigan enact:

324.32607 Submerged log removal permit; requirements.

Sec. 32607. (1) The department shall not authorize the same bottomland log removal area in more than 1 submerged log removal permit at any 1 time.

(2) The department may modify the boundaries of a proposed bottomland log removal area in a submerged log removal permit to avoid overlaps with other active submerged log removal permits or adverse impacts, including, but not limited to, impacts to the environment, natural resources, riparian rights, and the public trust.

(3) A submerged log removal plan approved by the department shall be included in each submerged log removal permit.

(4) A submerged log removal permit shall contain terms and conditions that are determined by the department to protect the environment, natural resources, riparian rights, and the public trust.

(5) Each submerged log removal permit shall expire on January 1, 2013. An applicant shall notify the department of the date on which the federal government issued its approval for the submerged log removal permit. Processing fees received under this subsection shall be forwarded to the state treasurer for deposit into the fund.

(6) A submerged log removal permit issued under this section is not transferrable unless approved in writing by the department.

(7) An applicant for a submerged log removal permit shall provide a performance bond acceptable to the department in the amount of $100,000.00. The performance bond shall be provided to the department at least 10 days prior to beginning submerged log removal in a bottomland log removal area. The performance bond shall ensure compliance with the submerged log removal permit for the period of the permit or until the authorized submerged log removal is completed to the satisfaction of the department and all payments under section 32609 have been made. The department shall issue a written statement releasing the permittee and bonding company upon termination of the submerged log removal permit and upon satisfaction of the department as to the compliance of the permittee with the terms and conditions of the permit. The department may draw upon the performance bond for delinquent payments as required in section 32609.

(8) A permittee may request, in writing, and the department may grant, termination of a submerged log removal permit prior to the expiration date, including release from quarterly reports and performance bond requirements.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

[No. 547]

(SB 1278)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 80101 (MCL 324.80101), as added by 1995 PA 58, and by adding section 80108a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

324.80101 Definitions; A to C.

Sec. 80101. As used in this part:

(a) "Airboat" means a motorboat that is propelled, wholly or in part, by a propeller projecting above the water surface.

(b) "Anchored rafts" means all types of nonpowered rafts used for recreational purposes that are anchored seasonally on waters of this state.

(c) "Associated equipment" means any of the following that are not radio equipment:

(*i*) An original system, part, or component of a boat at the time that boat was manufactured, or a similar part or component manufactured or sold for replacement.

(*ii*) Repair or improvement of an original or replacement system, part, or component.

(*iii*) An accessory or equipment for, or appurtenance to, a boat.

(*iv*) A marine safety article, accessory, or equipment intended for use by a person on board a boat.

(d) "Boat" means a vessel.

(e) "Boat livery" means a business that holds a vessel for renting, leasing, or chartering.

(f) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(g) "Conviction" means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, a finding of guilt, or a probate court disposition on a violation of this part, regardless of whether the penalty is rebated or suspended.

324.80108a Operation of airboat within certain distance of residence; limitation; exceptions.

Sec. 80108a. (1) A person shall not operate an airboat on the waters of this state within 450 feet of a residence between the hours of 11 p.m. and 6 a.m. at a speed in excess of the minimum speed required to maintain forward movement.

(2) Subsection (1) does not apply to any of the following:

(a) The operation of an airboat in an emergency when necessary to protect public safety.

(b) The operation of an airboat so as to free the airboat when it has run aground.

(c) The operation of an airboat for a governmental purpose if the airboat is clearly marked and identified as being used for a governmental purpose.

Repeal of 324.80108a.

Enacting section 1. Section 80108a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80108a, is repealed effective May 1, 2007.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

[No. 548]

(SB 1319)

AN ACT to amend 1971 PA 174, entitled "An act to create the office of child support; and to prescribe certain powers and duties of the office, certain public and private agencies, and certain employers and former employers," by amending sections 1, 5, and 6 (MCL 400.231, 400.235, and 400.236), section 1 as amended by 2002 PA 564, section 5 as amended by 1998 PA 112, and section 6 as added by 1999 PA 161.

The People of the State of Michigan enact:

400.231 Definitions.

Sec. 1. As used in this act:

(a) "Account" means any of the following:

(*i*) A demand deposit account.

(*ii*) A draft account.

(*iii*) A checking account.

(*iv*) A negotiable order of withdrawal account.

(*v*) A share account.

(*vi*) A savings account.

(*vii*) A time savings account.

(*viii*) A mutual fund account.

(*ix*) A securities brokerage account.

(*x*) A money market account.

(*xi*) A retail investment account.

(*xii*) An electronic access or debit card.

(b) "Account" does not mean any of the following:

(*i*) A trust.

(*ii*) An annuity.

(*iii*) A qualified individual retirement account.

(*iv*) An account covered by the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829.

(*v*) A pension or retirement plan.

(*vi*) An insurance policy.

(c) "Address" means the primary address shown on the records of a financial institution used by the financial institution to contact an account holder.

(d) "Adult responsible for the child" means a parent, relative who has physically cared for the child, putative father, or current or former guardian of a child, including an emancipated or adult child.

(e) "Current employment" means employment within 1 year before a friend of the court request for information.

(f) "Department" means the family independence agency.

(g) "Financial asset" means stock, a bond, a money market fund, a deposit, an account, or a similar instrument.

(h) "Financial institution" means any of the following:

(*i*) A state or national bank.

(*ii*) A state or federally chartered savings and loan association.

(*iii*) A state or federally chartered savings bank.

(*iv*) A state or federally chartered credit union.

(*v*) An insurance company.

(*vi*) An entity that offers any of the following to a resident of this state:

(A) A mutual fund account.

(B) A securities brokerage account.

(C) A money market account.

(D) A retail investment account.

(*vii*) An entity regulated by the securities and exchange commission that collects funds from the public.

(*viii*) An entity that is a member of the national association of securities dealers and that collects funds from the public.

(*ix*) An entity that collects funds from the public.

(i) "Office" means the office of child support.

(j) "Friend of the court case" means that term as defined in section 2 of the friend of the court act, 1982 PA 294, MCL 552.502. The term "friend of the court case", when used in a provision of this act, is not effective until on and after December 1, 2002.

(k) "Payer", "recipient of support", "source of income", and "support" mean those terms as defined in section 2 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.602.

(*l*) "State disbursement unit" or "SDU" means the entity established in section 6 for centralized state receipt and disbursement of support and fees.

(m) "Title IV-D" means part D of title IV of the social security act, 42 USC 651 to 655, 656 to 657, 658a to 660, and 663 to 669b.

400.235 Availability and purposes of information.

Sec. 5. (1) The information obtained by the office shall be available to a governmental department, board, commission, bureau, agency, political subdivision of any state, a court of competent jurisdiction, or the federal government for purposes of administering, enforcing, and complying with state and federal laws governing child support and domestic relations matters. Unless otherwise precluded by state or federal law, the information obtained by the office is also available for purposes specified in 45 CFR 303.21. The office shall not release information regarding the use or payment history of an electronic access or debit card. Information pertaining to this type of account, if needed, shall be obtained from the recipient of support or the recipient's financial institution.

(2) The office shall not release information on an address or other information concerning an adult responsible for a child to another adult responsible for the child if the release is prohibited by a court order or if the office has reason to believe that release of information may result in physical or emotional harm to that adult or to the child. The office shall notify the federal government, and courts and agents of courts, about domestic violence or child abuse under part D of title IV of the social security act, 42 USC 651 to 660 and 663 to 669b.

400.236 State disbursement unit; establishment; processes and procedures; collection; electronic disbursement.

Sec. 6. (1) The state disbursement unit is established as the direct responsibility of the office. The SDU shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical to receive and disburse support and fees.

(2) The SDU is the single location to which a payer or source of income subject to this section shall send a support or fee payment. The SDU shall disburse a support payment to the recipient of support within 2 business days after the SDU receives the support

payment. Not less than twice each calendar month, the SDU shall disburse fees that it receives to the appropriate county treasurer or office of the friend of the court.

(3) If a payer or source of income attempts to make a support or fee payment to the SDU and the payment transaction fails due to nonsufficient funds, the SDU may take actions to collect from the payer or source of income the support or fee payment amount, plus an amount for the expense of those actions.

(4) By not later than 1 year after the effective date of the amendatory act that added this subsection, the SDU shall disburse support electronically, in not fewer than 3 counties in this state, to either the recipient of support's account in a financial institution or to a special account that may be accessed by the recipient of support by an electronic access card. By not later than 2 years after the effective date of the amendatory act that added this subsection, the SDU shall disburse support electronically either to the recipient of support's account in a financial institution or to a special account that may be accessed by the recipient of support by an electronic access card. This subsection does not apply under any of the following circumstances:

(a) If electronic transfer is not feasible to meet federal requirements on the disbursement of child support payments.

(b) If the support payment is from a source that is nonrecurring or that is not expected to continue in a 12-month period.

(c) The recipient of support is a person with a mental or physical disability that imposes a hardship in accessing an electronically transferred payment.

(d) The recipient of support is a person with a language or literacy barrier that imposes a hardship in accessing an electronically transferred payment.

(e) The recipient of support's home and work addresses are more than 30 miles from an automated teller machine and more than 30 miles from a financial institution where funds in the recipient's account may be accessed.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

[No. 549]

(HB 6077)

AN ACT to amend 1966 PA 346, entitled "An act to create a state housing development authority; to define the powers and duties of the authority; to establish a housing development revolving fund; to establish a land acquisition and development fund; to establish a rehabilitation fund; to establish a conversion condominium fund; to authorize the making and purchase of loans, deferred payment loans, and grants to qualified developers, sponsors, individuals, mortgage lenders, and municipalities; to establish and provide acceleration and foreclosure procedures; to provide tax exemption; to authorize payments in lieu of taxes by nonprofit housing corporations, consumer housing cooperatives, limited dividend housing corporations, mobile home park corporations, and mobile home park associations; and to prescribe criminal penalties for violations of this act," by amending sections 11, 32b, 44, and 44a (MCL 125.1411, 125.1432b, 125.1444, and 125.1444a), section 11 as amended by 1996 PA 475 and sections 32b, 44, and 44a as amended by 2000 PA 257.

The People of the State of Michigan enact:

125.1411 Definitions.

Sec. 11. As used in this act:

(a) "Authority" means the Michigan state housing development authority created in this act.

(b) "Development costs" means the costs that have been approved by the authority as appropriate expenditures, and includes:

(*i*) Payments for options to purchase properties on the proposed housing project site, deposits on contracts of purchase, or, with the prior approval of the authority, payments for the purchases of those properties.

(*ii*) Legal, organizational, and marketing expenses, including payment of attorneys' fees, project manager and clerical staff salaries, office rent, and other incidental expenses.

(*iii*) Payment of fees for preliminary feasibility studies, advances for planning, engineering, and architectural work.

(*iv*) Expenses for surveys as to need, and market analyses.

(*v*) Necessary application and other fees to federal and other government agencies.

(*vi*) Other expenses incurred by the nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association that the authority considers appropriate to effectuate the purposes of this act.

(c) "Federally-aided mortgage" means any of the following:

(*i*) A below market interest rate mortgage insured, purchased, or held by the secretary of the department of housing and urban development.

(*ii*) A market interest rate mortgage insured by the secretary of the department of housing and urban development and augmented by a program of rent supplements.

(*iii*) A mortgage receiving interest reduction payments provided by the secretary of the department of housing and urban development.

(*iv*) A mortgage on a housing project to which the authority allocates low income housing tax credits under section 22b.

(*v*) A mortgage receiving special benefits under other federal law designated specifically to develop low and moderate income housing, consistent with this act.

(d) "Fund" means the housing development fund created by this act.

(e) "Project cost" means the sum total of all reasonable or necessary costs incurred by the nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association for carrying out all works and undertakings for the completion of a housing project and approved by the authority. In addition to other reasonable and necessary costs, "project costs" includes costs for all of the following: studies and surveys; plans, specifications, and architectural and engineering services; legal, organization, marketing, or other special services; financing, acquisition, demolition, construction, equipment, and site development of new and rehabilitated buildings; movement of existing buildings to other sites; rehabilitation, reconstruction, repair, or remodeling of existing buildings; carrying charges during construction; the cost of placement of tenants or occupants, and relocation services in connection with a housing project; and, to the extent not already included, all development costs.

(f) "Housing project" means any of the following:

(*i*) Residential real property developed or to be developed or receiving benefits under this act.

(*ii*) A specific work or improvement either for rental or for subsequent sale to an individual purchaser undertaken by a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association pursuant to or receiving benefits under this act to provide dwelling accommodations, including the acquisition, construction, or rehabilitation of lands, buildings, and improvements.

(*iii*) Social, recreational, commercial, and communal facilities that the authority finds necessary to serve and improve a residential area in which housing described in subparagraph (*i*) or (*ii*) is located or is planned to be located, thereby enhancing the viability of the housing.

(g) "Low income or moderate income persons" means families and persons who cannot afford to pay the amounts at which private enterprise, without federally-aided mortgages or loans from the authority, is providing a substantial supply of decent, safe, and sanitary housing and who fall within income limitations set in this act or by the authority in its rules. Among low income or moderate income persons, preference shall be given to the elderly and those displaced by urban renewal, slum clearance, or other governmental action.

(h) "Municipality" means a city, village, or township in this state.

(i) "County" means a county within this state.

(j) "Governing body" means in the case of a city, the council or commission of the city; in the case of a village, the council, commission, or board of trustees of the village; in the case of a township, the township board; and in the case of a county, the county board of commissioners.

(k) "Nonprofit housing corporation" means a nonprofit corporation incorporated under the corporation laws of this state and chapter 4.

(*l*) "Consumer housing cooperative" means a nonprofit corporation incorporated pursuant to the corporation laws of this state and chapter 5.

(m) "Annual shelter rent" means the total collections during an agreed annual period from all occupants of a housing project representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.

(n) "Taxing jurisdiction" means a municipality, county, or district, including a school district or any special district having the power to levy or collect taxes upon real property or in whose behalf taxes may be levied or collected.

(o) "Elderly" means a single person who is 55 years of age or older or a household in which at least 1 member is 55 years of age or older and all other members are 50 years of age or older.

(p) "Housing development" means a development that contains a significant element of housing for persons of low or moderate income and elements of other housing and commercial, recreational, industrial, communal, and educational facilities that the authority determines improve the quality of the development as it relates to housing for persons of low or moderate income.

(q) "Limited dividend housing corporation" means a corporation incorporated or qualified pursuant to the corporation laws of this state and chapter 6 and a limited dividend housing association organized and qualified pursuant to chapter 7.

(r) "Residential real property" means real property located in this state, used for residential purposes, and improved or to be improved by a residential structure. Residential real property includes a mobile home, a mobile home park, and a mobile home condominium project. When the terms "rehabilitate" or "rehabilitation" are used in conjunction with residential real property, residential real property refers to property improved by a residential structure.

(s) "Rehabilitation" means all or part of those repairs and improvements necessary to make residential real property safe, sanitary, or adequate.

(t) "Deferred payment loan" means a loan that is repayable or partially repayable upon the occurrence of a specified event as determined by the authority.

(u) "Eligible distressed area" means any of the following:

(*i*) An area located in a city with a population of at least 10,000, which area is either designated as a "blighted area" by a local legislative body pursuant to 1945 PA 344, MCL 125.71 to 125.84, or which area is determined by the authority to be blighted or largely vacant by reason of clearance of blight, if, with respect to the area, the authority determines all of the following:

(A) That private enterprise has failed to provide a supply of adequate, safe, and sanitary dwellings sufficient to meet market demand.

(B) That approval of elimination of income limits applicable in connection with authority loans has been received from the city in the form of either a resolution adopted by the highest legislative body of the city or, if the city charter provides for the mayor to be elected at large with that office specifically designated on the ballot, provides that the office of mayor is a full-time position, and provides that the mayor has the power to veto legislative actions of the legislative body of that city, a written communication from the mayor of that city.

(*ii*) A municipality that meets all of the following requirements:

(A) The municipality shows a negative population change from 1970 to the date of the most recent federal decennial census.

(B) The municipality shows an overall increase in the state equalized value of real and personal property of less than the statewide average increase since 1972.

(C) The municipality has a poverty rate, as defined by the most recent federal decennial census, greater than the statewide average.

(D) The municipality has had an unemployment rate higher than the statewide average unemployment rate for 3 of the preceding 5 years.

(*iii*) An area located in a local unit of government certified by the Michigan enterprise zone authority as meeting the criteria prescribed in section 2(d) of the neighborhood enterprise zone act, 1992 PA 147, MCL 207.772.

(v) "Mobile home" means a structure, transportable in 1 or more sections, that is built on a chassis and is designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Mobile home may, but need not, include the real property to which the mobile home may be attached. Mobile home does not include a recreational vehicle.

(w) "Mobile home condominium project" means a condominium project in which mobile homes are intended to be located upon separate sites that constitute individual condominium units and that complies with the condominium act, 1978 PA 59, MCL 559.101 to 559.276.

(x) "Mobile home park" means a parcel or tract of land under the control of a person or entity upon which 3 or more mobile homes are located on a continual, nonrecreational, residential basis and that is offered to the public for general public use for continual, nonrecreational, residential purposes regardless of whether a charge is made for that use, together with any social, recreational, commercial, and communal facilities used or intended for use incident to the occupancy of a mobile home. Mobile home park does not include trailer parks and courts for use on a transient basis.

(y) "Mobile home park association" means a mobile home park association organized and qualified in accordance with chapter 9.

(z) "Mobile home park corporation" means a corporation incorporated pursuant to the corporation laws of this state and qualified in accordance with chapter 8.

(aa) "Housing unit" means living accommodations that are intended for occupancy by up to 4 families, with a separate dwelling unit for each family, that may be site constructed or may be a mobile home or other form of manufactured housing, and with respect to which either of the following applies:

(*i*) The owner of the housing occupies at least 1 of the dwelling units.

(*ii*) A cooperative shareholder or member has a proprietary lease of the housing unit.

(bb) "Moderate cost residential rental property" means dwelling units for which the rental payments are equal to or less than that established from time to time as the fair market rents for existing housing in accordance with 1 of the following:

(*i*) The section 8 leased housing program established under section 8 of the United States housing act of 1937, 42 USC 1437f, and the regulations promulgated under that act, or a substantially equivalent successor federal program.

(*ii*) A determination made by the authority of the average fair market rent for existing rental property.

(cc) "Area of chronic economic distress" means an area that qualifies as a "qualified census tract" or an "area of chronic economic distress" as defined in former section 103A(k) of the internal revenue code, or an eligible distressed area.

(dd) "Mortgage lender" means a state or national bank, state or federal savings and loan association, mortgage company, insurance company, state pension fund, or any other financial institution, intermediary, or entity authorized to make mortgage loans in this state.

(ee) "Authority-aided mortgage" means a mortgage made, held, purchased, or assisted by the authority.

(ff) "Subsidiary nonprofit housing corporation" means an entity created under section 22c.

(gg) "Family income" means all income that is included in a determination of family income under section 143(f) of the internal revenue code, 26 USC 143(f), together with the income of all adults who will reside in the residence, which income might otherwise be excluded from consideration because the individual was not expected to both live in the residence and be primarily or secondarily liable on the mortgage note.

(hh) "Statewide median gross income" means the statewide median gross income as determined under section 143(f) of the internal revenue code, 26 USC 143(f).

(ii) "Mutual housing association" means a corporation organized in accordance with chapter 10.

(jj) "Internal revenue code" means the United States internal revenue code of 1986.

(kk) "Internal revenue code of 1954" means the United States internal revenue code of 1954 as in effect on the day immediately before the effective date of the internal revenue code of 1986.

125.1432b Mortgage credit certificate program; authority designated as administrator; guidelines; qualifying for receipt of mortgage credit certificate; adaptation of property for use by disabled individuals; applicability of internal revenue code; exception; retroactive effect of changes in subsections (3) and (4).

Sec. 32b. (1) The authority is designated as the administrator of the mortgage credit certificate program for this state permitted under section 25 of the internal revenue code, 26 USC 25.

(2) The authority shall prepare guidelines that would allow for the implementation of a mortgage credit certificate program through mortgage lenders.

(3) To qualify for receipt of a mortgage credit certificate with respect to the acquisition of a new or existing housing unit, including a residential condominium or mobile home, both of the following apply:

(a) The purchase price with respect to the new or existing unit shall not exceed 3 times the income limit, as established pursuant to subdivision (b), subsection (5)(a), or subsection (5)(b).

(b) The borrower's family income does not exceed the following:

(*i*) For eligible distressed areas, $69,800.00 until June 1, 2006, $72,250.00 until November 1, 2007, and $74,750.00 on and after November 1, 2007.

(*ii*) For any other area, $60,700.00 until June 1, 2006, $62,800.00 until November 1, 2007, and $65,000.00 on and after November 1, 2007.

(4) The authority may increase the purchase price limit in subsection (3) to cover the cost of improvements to adapt the property for use by disabled individuals or unexpected cost increases during construction. The amount of the increase shall be the amount of the costs described in this subsection or the sum of $3,500.00, whichever is less.

(5) To qualify for receipt of a mortgage credit certificate with respect to the improvement or rehabilitation of an existing housing unit, including a residential condominium or mobile home, the borrower's family income shall not exceed the following:

(a) For eligible distressed areas, $69,800.00 until June 1, 2006, $72,250.00 until November 1, 2007, and $74,750.00 on and after November 1, 2007.

(b) For any other area, $60,700.00 until June 1, 2006, $62,800.00 until November 1, 2007, and $65,000.00 on and after November 1, 2007.

(6) If an income or purchase price limit prescribed by subsection (3), (4), or (5) exceeds an applicable limit prescribed by the internal revenue code, 26 USC 1 to 9833, the internal revenue code limit applies. Except with respect to newly constructed housing units, the authority may at any time by resolution establish, for a length of time it considers appropriate, maximum borrower income or purchase price limits more restrictive than those maximum limitations set forth in this section. The authority shall advise the appropriate house and senate standing committees 5 days prior to the adoption of a resolution establishing more restrictive income or purchase price limits.

(7) The changes made by 1995 PA 186 to purchase price limits in the subsections that at the time were designated subsections (3) and (4) were retroactive, effective as of October 29, 1993.

125.1444 Loans; purposes; conditions; amount; eligibility; sales and resales; replacement of mortgage; utilizing labor of prospective purchasers; long-term financing; securing and repaying loans; interest rate; misrepresentation of income.

Sec. 44. (1) (a) The authority may make loans to a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, limited dividend

housing association, mobile home park corporation, or mobile home park association or to a public body or agency for the construction or rehabilitation, and for the long-term financing, of the following:

(*i*) Housing for low income or moderate income persons.

(*ii*) For the period of time beginning May 1, 1984, and ending November 1, 1987, housing projects in which not less than 20% of the dwelling units are allotted to individuals of low or moderate income within the meaning of former section 103(b)(4)(A) of the internal revenue code of 1954; not less than 60% of the dwelling units are available to persons and families whose gross household income does not exceed 125% of the higher of either the median income for a family in this state or the median income for a family within the nonmetropolitan county or metropolitan statistical area in which the housing project is located, as determined by the authority; and not more than 20% of the dwelling units are available for occupancy without regard to income. The enactment of this subparagraph or the expiration of the authority granted by it does not affect rules in effect before July 10, 1984, or promulgated after July 9, 1984, to define low or moderate income persons.

(*iii*) For the period of time beginning May 1, 1984, and ending November 1, 1987, housing projects in eligible distressed areas in which housing projects not less than 20% of the dwelling units are allotted to individuals of low or moderate income within the meaning of former section 103(b)(4)(A) of the internal revenue code of 1954; not less than 60% of the dwelling units are available to persons and families whose gross household income does not exceed 150% of the higher of either the median income for a family in this state or the median income for a family within the nonmetropolitan county or metropolitan statistical area in which the housing project is located, as determined by the authority, and not more than 20% of the dwelling units are available for occupancy without regard to income.

(*iv*) Beginning November 1, 1987, multifamily housing projects that meet the 20-50 or 40-60 test established in section 142 of the internal revenue code, 26 USC 142, and, in addition, in which the remaining dwelling units are available for occupancy without regard to income.

(*v*) Social, recreational, commercial, or communal facilities necessary to serve and improve the residential area in which an authority-financed housing project is located or is planned to be located thereby enhancing the viability of the housing.

(b) Notwithstanding the provisions of this section, the authority may establish by resolution higher income limits that it considers necessary to achieve sustained occupancy of a housing project financed under subsection (1)(a)(*i*), (*ii*), (*iii*), (*iv*), or (*v*) if the authority determines both of the following:

(*i*) The owner of the housing project exercised reasonable efforts to rent the dwelling units to persons and families whose incomes did not exceed the income limitations originally applicable.

(*ii*) For an annual period after the first tenant has occupied the housing project, the owner of the housing project has been unable to attain and sustain at least a 95% occupancy level at the housing project.

(c) A loan under this section may be in an amount not to exceed 90% of the project cost as approved by the authority. For purposes of this section, the term "project cost" includes all items included in the definition of a project cost in section 11 and also includes a builder's fee equal to an amount up to 5% of the amount of the construction contract, developer overhead allowance and fee of 5% of the amount of the project cost, the cost of

furnishings, and a sponsor's risk allowance equal to 10% of the project cost. A loan shall not be made under this section unless a market analysis has been conducted that demonstrates a sufficient market exists for the housing project.

(d) After November 1, 1987, the authority may continue to finance multifamily housing projects for families or persons whose incomes do not exceed the limits provided in subsection (1)(a)(*ii*) or (*iii*) or (1)(b), until funds derived from the proceeds of bonds or notes issued before November 2, 1987, for that purpose, including the proceeds of prepayments or recovery payments with respect to these multifamily housing projects, have been expended. Multifamily housing projects or single family housing units in an eligible distressed area that are financed by proceeds of notes or bonds issued before June 30, 1984, and that the authority has designated for occupancy by persons and families without regard to income pursuant to this act shall remain eligible for occupancy by families and persons without regard to income until the authority's mortgage loan issued with respect to these multifamily housing projects is fully repaid.

(e) Notwithstanding the expiration of lending authority under subsection (1)(a)(*ii*), (*iii*), (*iv*), or (*v*), multifamily housing projects financed under those subparagraphs may continue to remain eligible for occupancy by persons and families whose incomes do not exceed the limits provided in those subparagraphs or subsection (1)(b).

(f) For purposes of this subsection:

(*i*) "Gross household income" means gross income of a household as those terms are defined in rules of the authority.

(*ii*) "Median income for a family in this state" and "median income for a family within the nonmetropolitan county or metropolitan statistical area" mean those income levels as determined by the authority.

(2) (a) The authority may make loans to a nonprofit housing corporation, limited dividend housing corporation, mobile home park corporation, or mobile home park association for the construction or rehabilitation of housing units, including residential condominium units as defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104, for sale to individual purchasers of low or moderate income or to individual purchasers without regard to income when the housing units are located in an eligible distressed area. A loan under this section may be in an amount not to exceed 100% of the project cost as approved by the authority in the case of a nonprofit housing corporation or individual purchaser, and in an amount not to exceed 90% of the project cost as approved by the authority in the case of a limited dividend housing corporation, mobile home park corporation, or mobile home park association.

(b) While a loan under this subsection is outstanding, a sale by a nonprofit housing corporation or limited dividend housing corporation or a subsequent resale is subject to approval by the authority. The authority may provide in its rules concerning these sales and resales that the price of the housing unit sold, the method of making payments after the sale, the security afforded, and the interest rate, fees, and charges to be paid shall at all times be sufficient to permit the authority to make the payments on its bonds and notes and to meet administrative or other costs of the authority in connection with the transactions. Housing units shall be sold under terms that provide for monthly payments including principal, interest, taxes, and insurance.

(c) While a loan under this subsection is outstanding, the authority, before the approval of sale by a nonprofit housing corporation, limited dividend housing corporation, mobile home park corporation, or mobile home park association, shall satisfy itself that the sale is to persons of low or moderate income if the housing unit is not located in an eligible distressed area, or to persons without regard to income if the housing unit is located in an eligible distressed area.

(3) The authority may make, purchase, or participate in loans made to individual purchasers for acquisition and long-term financing of newly rehabilitated, newly constructed, or existing 1- to 4-unit housing units, including a residential condominium unit as defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104. To qualify, all of the following apply:

(a) The borrower's family income shall not exceed the following:

(*i*) For eligible distressed areas, $69,800.00 until June 1, 2006, $72,250.00 until November 1, 2007, and $74,750.00 on and after November 1, 2007.

(*ii*) For any other area, $60,700.00 until June 1, 2006, $62,800.00 until November 1, 2007, and $65,000.00 on and after November 1, 2007.

(b) The purchase price does not exceed the following:

(*i*) With respect to a 1- or 2-family unit, 3 times the income limit, as established pursuant to subdivision (a).

(*ii*) With respect to a 3-family unit, 3-1/2 times the income limit, as established pursuant to subdivision (a).

(*iii*) With respect to a 4-family unit, 4 times the income limit, as established pursuant to subdivision (a).

(c) For unexpected cost increases during construction or improvements to adapt new or existing property for use by disabled individuals, the authority may increase the purchase price limit by an amount sufficient to cover these cost increases, but not to exceed $3,500.00.

(d) If an income or purchase price limit prescribed by this subsection exceeds an application limit prescribed by the internal revenue code, the internal revenue code limit applies.

(e) Except with respect to newly constructed housing units, the authority may by resolution establish, for a length of time the authority considers appropriate, maximum borrower income or purchase price limits more restrictive than those maximum limitations set forth in this section. The authority shall advise the appropriate house and senate standing committees 5 days prior to adopting a resolution establishing more restrictive maximum borrower income or purchase price limits.

(f) Before making a loan under this section, authority staff shall determine that the borrower has the ability to repay the loan.

(g) A loan made or purchased to finance the acquisition of an existing housing unit may include funds for rehabilitation.

(4) A loan shall be secured in a manner and be repaid in a period, not exceeding 50 years, as may be determined by the authority. A loan shall bear interest at a rate determined by the authority.

(5) A person who, for purposes of securing a loan under this act, misrepresents his or her income, including taking a leave of absence from his or her employment for purposes of diminishing his or her income, is not to be eligible for a loan under this act.

125.1444a Rehabilitation loans, grants, or deferred payment loans; eligibility; secured or unsecured loans or grants; insurance; reserve; interest; terms and conditions; rules; maximum principal loan amounts; minimum age of structure.

Sec. 44a. (1) The authority may make, purchase, or participate in loans, grants, or deferred payment loans to persons and families of low and moderate income to finance the

rehabilitation of residential real property designed for occupancy by not more than 24 families that is owned or is being purchased by 1 or more persons or families of low and moderate income and that is for occupancy by persons or families of low and moderate income.

(2) The authority, without regard to the income of the owners or occupants of residential rental property, may make, purchase, or participate in loans, grants, or deferred payment loans for the rehabilitation of residential rental property to persons or entities owning residential rental property located in areas of chronic economic distress and moderate cost residential rental property located elsewhere in this state.

(3) A loan under this section may be secured or unsecured as determined by the authority. If the loan is unsecured, it shall be accepted for insurance under title 1 of the national housing act, 12 USC 1702, 1703, 1705, and 1706b to 1706d, or another federal or private insurance program providing coverage at least equal to that provided by that title, or the authority shall establish a reserve for losses on uninsured loans made under this section and shall deposit into that reserve an amount equal to 5% of the principal amount of each such uninsured loan on or before the making of the loan. Money may be withdrawn by the authority from this reserve for application as loan repayments in connection with loans that are delinquent. In addition, upon repayment of a loan made, purchased, or participated in under this section, the authority may withdraw the amount deposited in the reserve in connection with that loan, reduced by amounts withdrawn as loan repayments in connection with the loan, and may apply the amounts to any of the authority's programs and purposes. Income or interest earned by or increment to the reserve due to the investment of the money in the reserve may, at the times determined by the authority, be transferred by the authority to other funds or accounts of the authority and applied to any of the corporate purposes of the authority. A loan under this section shall bear interest at a rate and be repaid in the period, not exceeding 20 years, as determined by the authority and under additional terms and conditions as determined by the authority.

(4) A deferred payment loan or grant may be secured or unsecured as determined by the authority, and shall be made under additional terms and conditions determined by the authority.

(5) In recognition of the need for rehabilitation loans, grants, and deferred payment loans in all geographic areas of the state, the authority shall promulgate rules that provide for the availability of loans, grants, and deferred payment loans on an equitable basis to qualified applicants in all geographic areas of this state. With respect to loans, grants, and deferred payment loans made pursuant to this section that are not based on residency in a neighborhood selected under section 22a(5), eligibility for loans, grants, or deferred payment loans shall not be based upon the number of qualified applicants in the geographic area in which the individual resides.

(6) For purposes of this section, persons and families of low and moderate income means persons and families whose family income does not exceed the following:

(a) For eligible distressed areas, $69,800.00 until June 1, 2006, $72,250.00 until November 1, 2007, and $74,750.00 on and after November 1, 2007.

(b) For any other area, $60,700.00 until June 1, 2006, $62,800.00 until November 1, 2007, and $65,000.00 on and after November 1, 2007.

(7) The maximum principal loan amounts for home improvement loans, exclusive of finance charges, are as follows:

(a) $50,000.00 for a residential structure containing 1 dwelling unit, unless the loan is made in conjunction with additional money provided by a municipality or nonprofit community-based organization, in which case a loan for a residential structure containing 1 dwelling unit is $35,000.00.

(b) $25,000.00 per dwelling unit for a residential structure containing 2 to 24 dwelling units.

(8) A structure is not required to be of a minimum age to be eligible for rehabilitation under this section.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1341 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

Compiler's note: Senate Bill No. 1341, referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 535, Imd. Eff. Jan. 3, 2005.

[No. 550]

(SB 1409)

AN ACT to amend 1992 PA 116, entitled "An act to designate and regulate certain records media; and to prescribe the powers and duties of certain governmental entities and officials," by amending section 3 (MCL 24.403) and by adding section 6.

The People of the State of Michigan enact:

24.403 Reproduction created by person other than governmental entity or official acting in official capacity; incorporation by reference.

Sec. 3. With respect to a reproduction created by a person other than a governmental entity or a governmental official acting in his or her official capacity, a law that references this act incorporates by reference any reproduction method or medium approved by this act.

24.406 Reproduction of record; force and effect as original; admissibility.

Sec. 6. A record reproduced under this act shall have the same force and effect as a true paper copy of a record. All copies produced under this act, when certified as true by the officer in whose office the original was filed or recorded, shall have the same force and effect as an original for all legal purposes and is admissible in court, administrative proceedings, and elsewhere as evidence in the same manner as an original.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

(a) House Bill No. 5550.

(b) House Bill No. 5657.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

Compiler's note: House Bill No. 5550, referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 572, Imd. Eff. Jan. 3, 2005.

House Bill No. 5657, also referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 574, Imd. Eff. Jan. 3, 2005.

[No. 551]

(SB 1465)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 5653 and 5654 (MCL 333.5653 and 333.5654), as amended by 2001 PA 239.

The People of the State of Michigan enact:

333.5653 Definitions.

Sec. 5653. (1) As used in this part:

(a) "Advanced illness", except as otherwise provided in this subdivision, means a medical or surgical condition with significant functional impairment that is not reversible by curative therapies and that is anticipated to progress toward death despite attempts at curative therapies or modulation, the time course of which may or may not be determinable through reasonable medical prognostication. For purposes of section 5655(b) only, "advanced illness" has the same general meaning as "terminal illness" has in the medical community.

(b) "Health facility" means a health facility or agency licensed under article 17.

(c) "Hospice" means that term as defined in section 20106.

(d) "Medical treatment" means a treatment including, but not limited to, palliative care treatment, or a procedure, medication, surgery, a diagnostic test, or a hospice plan of care that may be ordered, provided, or withheld or withdrawn by a health professional or a health facility under generally accepted standards of medical practice and that is not prohibited by law.

(e) "Patient" means an individual who is under the care of a physician.

(f) "Patient advocate" means that term as described and used in sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

(g) "Patient surrogate" means the parent or legal guardian of a patient who is a minor or a member of the immediate family, the next of kin, or the legal guardian of a patient who has a condition other than minority that prevents the patient from giving consent to medical treatment.

(h) "Physician" means that term as defined in section 17001 or 17501.

(2) Article 1 contains general definitions and principles of construction applicable to all articles in this code.

333.5654 Recommended medical treatment for advanced illness; duty of physician to inform orally; limitation or modification of disclosed information.

Sec. 5654. (1) A physician who has diagnosed a patient as having a reduced life expectancy due to an advanced illness and is recommending medical treatment for the patient shall do all of the following:

(a) Orally inform the patient, the patient's patient surrogate, or, if the patient has designated a patient advocate and is unable to participate in medical treatment decisions, the patient advocate acting on behalf of the patient in accordance with sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515, about the recommended medical treatment and about alternatives to the recommended medical treatment.

(b) Orally inform the patient, patient surrogate, or patient advocate about the advantages, disadvantages, and risks of the recommended medical treatment and of each alternative medical treatment described in subdivision (a) and about the procedures involved.

(2) A physician's duty to inform a patient, patient surrogate, or patient advocate under subsection (1) does not require the disclosure of information beyond that required by the applicable standard of practice.

(3) Subsection (1) does not limit or modify the information required to be disclosed under sections 5133(2) and 17013(1).

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1464 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

Compiler's note: Senate Bill No. 1464, referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 532, Imd. Eff. Jan. 3, 2005.

[No. 552]

(SB 1467)

AN ACT to amend 1996 PA 193, entitled "An act to provide for the execution of a do-not-resuscitate order for a patient in a setting outside of a hospital, a nursing home, or a mental health facility owned or operated by the department of community health; to provide that certain actions be taken and certain actions not be taken with respect to such an order; to provide for the revocation of a do-not-resuscitate order; to prohibit certain persons and organizations from requiring the execution of such an order as a condition of receiving coverage, benefits, or services; to prohibit certain actions by certain insurers; to exempt certain persons from penalties and liabilities; and to prescribe liabilities," by amending section 2 (MCL 333.1052), as amended by 2000 PA 59.

The People of the State of Michigan enact:

333.1052 Definitions.

Sec. 2. As used in this act:

(a) "Attending physician" means the physician who has primary responsibility for the treatment and care of a declarant.

(b) "Declarant" means a person who has executed a do-not-resuscitate order or on whose behalf a do-not-resuscitate order has been executed as provided in section 3 or 5.

(c) "Do-not-resuscitate order" means a document executed as prescribed in section 3 or 5 directing that, in the event that a patient suffers cessation of both spontaneous respiration and circulation in a setting outside of a hospital, a nursing home, or a mental health facility owned or operated by the department of community health, resuscitation will not be initiated.

(d) "Do-not-resuscitate identification bracelet" or "identification bracelet" means a wrist bracelet that meets the requirements of section 7 and is worn by the declarant while a do-not-resuscitate order is in effect.

(e) "Emergency medical technician" means that term as defined in section 20904 of the public health code, MCL 333.20904.

(f) "Emergency medical technician specialist" means that term as defined in section 20904 of the public health code, MCL 333.20904.

(g) "Hospital" means that term as defined in section 20106 of the public health code, MCL 333.20106.

(h) "Medical first responder" means that term as defined in section 20906 of the public health code, MCL 333.20906.

(i) "Nurse" means a licensed practical nurse or a registered professional nurse as defined in section 17201 of the public health code, MCL 333.17201.

(j) "Order" means a do-not-resuscitate order.

(k) "Organization" means a company, corporation, firm, partnership, association, trust, or other business entity or a governmental agency.

(*l*) "Paramedic" means that term as defined in section 20908 of the public health code, MCL 333.20908.

(m) "Physician" means an individual licensed to engage in the practice of medicine or the practice of osteopathic medicine and surgery pursuant to article 15 of the public health code, MCL 333.16101 to 333.18838.

(n) "Patient advocate" means an individual designated to make medical treatment decisions for a patient under sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

(o) "Public health code" means 1978 PA 368, MCL 333.1101 to 333.25211.

(p) "Vital sign" means a pulse or evidence of respiration.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1464 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

Compiler's note: Senate Bill No. 1464, referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 532, Imd. Eff. Jan. 3, 2005.

[No. 553]

(SB 1468)

AN ACT to amend 1974 PA 258, entitled "An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending section 400 (MCL 330.1400), as amended by 1995 PA 290.

The People of the State of Michigan enact:

330.1400 Definitions.

Sec. 400. As used in this chapter, unless the context requires otherwise:

(a) "Clinical certificate" means the written conclusion and statements of a physician or a licensed psychologist that an individual is a person requiring treatment, together with the information and opinions, in reasonable detail, that underlie the conclusion, on the form prescribed by the department or on a substantially similar form.

(b) "Competent clinical opinion" means the clinical judgment of a physician, psychiatrist, or licensed psychologist.

(c) "Court" means the probate court or the court with responsibility with regard to mental health services for the county of residence of the subject of a petition, or for the county in which the subject of a petition was found.

(d) "Formal voluntary hospitalization" means hospitalization of an individual based on both of the following:

(*i*) The execution of an application for voluntary hospitalization by the individual or by a patient advocate designated under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, to make mental health treatment decisions for the individual.

(*ii*) The hospital director's determination that the individual is clinically suitable for voluntary hospitalization.

(e) "Informal voluntary hospitalization" means hospitalization of an individual based on all of the following:

(*i*) The individual's request for hospitalization.

(*ii*) The hospital director's determination that the individual is clinically suitable for voluntary hospitalization.

(*iii*) The individual's agreement to accept treatment.

(f) "Involuntary mental health treatment" means court-ordered hospitalization, alternative treatment, or combined hospitalization and alternative treatment as described in section 468.

(g) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(h) "Preadmission screening unit" means a service component of a community mental health services program established under section 409.

(i) "Private-pay patient" means a patient whose services and care are paid for from funding sources other than the community mental health services program, the department, or other state or county funding.

(j) "Release" means the transfer of an individual who is subject to an order of combined hospitalization and alternative treatment from 1 treatment program to another in accordance with his or her individual plan of services.

(k) "Subject of a petition" means an individual regarding whom a petition has been filed with the court asserting that the individual is or is not a person requiring treatment or for whom an objection to involuntary mental health treatment has been made under section 484.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

(a) Senate Bill No. 1464.

(b) Senate Bill No. 1469.

(c) Senate Bill No. 1470.

(d) Senate Bill No. 1471.

(e) Senate Bill No. 1472.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
Senate Bill No. 1464 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 532, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1469 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 554, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1470 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 555, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1471 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 556, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1472 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 557, Imd. Eff. Jan. 3, 2005.

[No. 554]

(SB 1469)

AN ACT to amend 1974 PA 258, entitled "An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending section 407 (MCL 330.1407), as amended by 1995 PA 290.

The People of the State of Michigan enact:

330.1407 Transfer of patient; notice; appeal.

Sec. 407. A patient in a department hospital may be transferred to any other hospital, or to any facility of the department that is not a hospital, if the transfer would not be

detrimental to the patient and if both the community mental health services program and the department approve the transfer. The patient, a patient advocate designated to make mental health treatment decisions for the patient under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, if any, and the patient's guardian or nearest relative shall be notified at least 7 days prior to any transfer, except that a transfer may be effected earlier if it is necessitated by an emergency. In addition, the patient may designate up to 2 other persons to receive the notice. If a transfer is effected due to an emergency, the required notices shall be given as soon as possible, but not later than 24 hours after the transfer. If the patient, the patient advocate, or the patient's guardian or nearest relative objects to the transfer, the department shall provide an opportunity to appeal the transfer.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

(a) Senate Bill No. 1464.

(b) Senate Bill No. 1468.

(c) Senate Bill No. 1470.

(d) Senate Bill No. 1471.

(e) Senate Bill No. 1472.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
Senate Bill No. 1464 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 532, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1468 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 553, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1470 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 555, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1471 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 556, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1472 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 557, Imd. Eff. Jan. 3, 2005.

[No. 555]

(SB 1470)

AN ACT to amend 1974 PA 258, entitled "An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending section 409 (MCL 330.1409), as amended by 1996 PA 588.

The People of the State of Michigan enact:

330.1409 Preadmission screening unit.

Sec. 409. (1) Each community mental health services program shall establish 1 or more preadmission screening units with 24-hour availability to provide assessment and screening

services for individuals being considered for admission into hospitals or alternative treatment programs. The community mental health services program shall employ mental health professionals to provide the preadmission screening services or contract with another agency, which shall meet the requirements of this section. Preadmission screening unit staff shall be supervised by a registered professional nurse or other mental health professional possessing at least a master's degree.

(2) Each community mental health services program shall provide the address and telephone number of its preadmission screening unit or units to law enforcement agencies, the department, the court, and hospital emergency rooms.

(3) A preadmission screening unit shall assess an individual being considered for admission into a hospital operated by the department or under contract with the community mental health services program. If the individual is clinically suitable for hospitalization, the preadmission screening unit shall authorize voluntary admission to the hospital.

(4) If the preadmission screening unit of the community mental health services program denies hospitalization, the individual or the person making the application may request a second opinion from the executive director. The executive director shall arrange for an additional evaluation by a psychiatrist, other physician, or licensed psychologist to be performed within 3 days, excluding Sundays and legal holidays, after the executive director receives the request. If the conclusion of the second opinion is different from the conclusion of the preadmission screening unit, the executive director, in conjunction with the medical director, shall make a decision based on all clinical information available. The executive director's decision shall be confirmed in writing to the individual who requested the second opinion, and the confirming document shall include the signatures of the executive director and medical director or verification that the decision was made in conjunction with the medical director. If an individual is assessed and found not to be clinically suitable for hospitalization, the preadmission screening unit shall provide appropriate referral services.

(5) If an individual is assessed and found not to be clinically suitable for hospitalization, the preadmission screening unit shall provide information regarding alternative services and the availability of those services, and make appropriate referrals.

(6) A preadmission screening unit shall assess and examine, or refer to a hospital for examination, an individual who is brought to the unit by a peace officer or ordered by a court to be examined. If the individual meets the requirements for hospitalization, the preadmission screening unit shall designate the hospital to which the individual shall be admitted. The preadmission screening unit shall consult with the individual and, if the individual agrees, it shall consult with the individual's family member of choice, if available, as to the preferred hospital for admission of the individual.

(7) If the individual chooses a hospital not under contract with a community mental health services program, and the hospital agrees to the admission, the preadmission screening unit shall refer the individual to the hospital that is requested by the individual. Any financial obligation for the services provided by the hospital shall be satisfied from funding sources other than the community mental health services program, the department, or other state or county funding.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

(a) Senate Bill No. 1464.

(b) Senate Bill No. 1468.

(c) Senate Bill No. 1469.

(d) Senate Bill No. 1471.

(e) Senate Bill No. 1472.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
Senate Bill No. 1464 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 532, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1468 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 553, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1469 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 554, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1471 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 556, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1472 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 557, Imd. Eff. Jan. 3, 2005.

[No. 556]

(SB 1471)

AN ACT to amend 1974 PA 258, entitled "An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending section 410 (MCL 330.1410), as added by 1995 PA 290.

The People of the State of Michigan enact:

330.1410 Informal or formal voluntary admission; authorization by preadmission screening unit.

Sec. 410. Except as otherwise provided in section 402a, an individual who requests, applies for, or assents to either informal or formal voluntary admission to a hospital operated by the department or a hospital under contract with a community mental health services program may be considered for admission by the hospital only after authorization by a community mental health services preadmission screening unit.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

(a) Senate Bill No. 1464.

(b) Senate Bill No. 1468.

(c) Senate Bill No. 1469.

(d) Senate Bill No. 1470.

(e) Senate Bill No. 1472.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
Senate Bill No. 1464 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 532, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1468 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 553, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1469 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 554, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1470 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 555, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1472 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 557, Imd. Eff. Jan. 3, 2005.

[No. 557]

(SB 1472)

AN ACT to amend 1974 PA 258, entitled "An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending section 415 (MCL 330.1415), as amended by 1995 PA 290.

The People of the State of Michigan enact:

330.1415 Formal voluntary hospitalization; execution of application.

Sec. 415. Subject to section 410, an individual 18 years of age or over may be hospitalized as a formal voluntary patient if the individual executes an application for hospitalization as a formal voluntary patient or the individual assents and the full guardian of the individual, the limited guardian with authority to admit, or a patient advocate authorized by the individual to make mental health treatment decisions under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, executes an application for hospitalization and if the hospital director considers the individual to be clinically suitable for that form of hospitalization.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

(a) Senate Bill No. 1464.

(b) Senate Bill No. 1468.

(c) Senate Bill No. 1469.

(d) Senate Bill No. 1470.

(e) Senate Bill No. 1471.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
Senate Bill No. 1464 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 532, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1468 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 553, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1469 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 554, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1470 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 555, Imd. Eff. Jan. 3, 2005.
Senate Bill No. 1471 was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 556, Imd. Eff. Jan. 3, 2005.

[No. 558]

(SB 1366)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 934 (MCL 600.934), as amended by 2000 PA 112.

The People of the State of Michigan enact:

600.934 Qualifications for admission to bar; "good moral character" defined; election to use multi-state bar examination scaled score; disclosure of score.

Sec. 934. (1) A person is qualified for admission to the bar of this state who proves to the satisfaction of the board of law examiners that he or she is a person of good moral character, is 18 years of age or older, has the required general education, learning in the law, and fitness and ability to enable him or her to practice law in the courts of record of this state, and that he or she intends in good faith to practice or teach law in this state. Additional requirements concerning the qualifications for admission are contained in subsequent sections of this chapter. As used in this subsection, "good moral character" means good moral character as defined and determined under 1974 PA 381, MCL 338.41 to 338.47.

(2) A person may elect to use the multi-state bar examination scaled score that the person achieved on a multi-state bar examination administered in another state or territory when applying for admission to the bar of this state, but only if all of the following occur:

(a) The score that the person elects to use was achieved on a multi-state examination administered within the 3 years immediately preceding the multi-state bar examination in this state for which the person would otherwise sit.

(b) The person achieved a passing grade on the bar examination of which the multi-state examination the score of which the person elects to use was a part.

(c) The multi-state examination the score of which the person elects to use was administered in a state or territory that accords the reciprocal right to elect to use the score achieved on the multi-state examination administered in this state to Michigan residents seeking admission to the bar of that state or territory.

(d) The person earns a grade on the essay portion of the bar examination that when combined with the transferred multi-state scaled score constitutes a passing grade for that bar examination.

(e) The person otherwise meets all requirements for admission to the bar of this state.

(3) The state board of law examiners shall disclose to a person electing under subsection (2) to transfer the multi-state bar examination scaled score achieved on an examination administered in another state or territory the score the person achieved as soon as that score is received by the board regardless of whether the person could have obtained that score in the jurisdiction in which the examination was administered. This subsection does not require disclosure by the board of the score achieved on a multi-state bar examination administered in another state or territory until the scores achieved on that examination administered in Michigan are released.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

[No. 559]

(SB 1466)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 145n (MCL 750.145n), as amended by 2000 PA 66.

The People of the State of Michigan enact:

750.145n Vulnerable adult abuse; first degree; second degree; third degree; fourth degree; authority to prevent vulnerable adult from being harmed or harming others not prohibited; applicability of section to act carried out by patient advocate.

Sec. 145n. (1) A caregiver is guilty of vulnerable adult abuse in the first degree if the caregiver intentionally causes serious physical harm or serious mental harm to a vulnerable adult. Vulnerable adult abuse in the first degree is a felony punishable by imprisonment for not more than 15 years or a fine of not more than $10,000.00, or both.

(2) A caregiver or other person with authority over the vulnerable adult is guilty of vulnerable adult abuse in the second degree if the reckless act or reckless failure to act of the caregiver or other person with authority over the vulnerable adult causes serious physical harm or serious mental harm to a vulnerable adult. Vulnerable adult abuse in the second degree is a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

(3) A caregiver is guilty of vulnerable adult abuse in the third degree if the caregiver intentionally causes physical harm to a vulnerable adult. Vulnerable adult abuse in the third degree is a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than $2,500.00, or both.

(4) A caregiver or other person with authority over the vulnerable adult is guilty of vulnerable adult abuse in the fourth degree if the reckless act or reckless failure to act of the caregiver or other person with authority over a vulnerable adult causes physical harm to a vulnerable adult. Vulnerable adult abuse in the fourth degree is a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(5) This section does not prohibit a caregiver or other person with authority over a vulnerable adult from taking reasonable action to prevent a vulnerable adult from being harmed or from harming others.

(6) This section does not apply to an act or failure to act that is carried out as directed by a patient advocate under a patient advocate designation executed in accordance with sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1464 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

Compiler's note: Senate Bill No. 1464, referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 532, Imd. Eff. Jan. 3, 2005.

[No. 560]

(HB 4096)

AN ACT to amend 1994 PA 204, entitled "An act to create the children's ombudsman; to prescribe the powers and duties of the children's ombudsman, certain state departments and officers, and certain county and private agencies serving children; and to provide remedies from certain administrative acts," by amending the title and sections 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 (MCL 722.922, 722.923, 722.924, 722.925, 722.926, 722.927, 722.928, 722.929, 722.930, and 722.931) and by adding section 5a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

TITLE

An act to establish the children's ombudsman office; and to prescribe the powers and duties of the children's ombudsman, certain state departments and officers, and certain county and private agencies serving children; and to provide remedies from certain administrative acts.

722.922 Definitions.

Sec. 2. As used in this act:

(a) "Administrative act" includes an action, omission, decision, recommendation, practice, or other procedure of the department, an adoption attorney, or a child placing agency with respect to a particular child related to adoption, foster care, or protective services.

(b) "Adoption attorney" means that term as defined in section 22 of the adoption code, MCL 710.22.

(c) "Adoption code" means chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.

(d) "Central registry" means that term as defined in section 2 of the child protection law, MCL 722.622.

(e) "Child" means an individual under the age of 18.

(f) "Child abuse" and "child neglect" mean those terms as defined in section 2 of the child protection law, MCL 722.622.

(g) "Child caring institution" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(h) "Child placing agency" means an organization licensed or approved by the department to receive children for placement in private family homes for foster care or adoption and to provide services related to adoption.

(i) "Complainant" means an individual who makes a complaint as provided in section 5.

(j) "Child protection law" means the child protection law, 1975 PA 238, MCL 722.621 to 722.638.

(k) "Children's ombudsman" or "ombudsman" means the individual appointed to the office of children's ombudsman under section 3.

(*l*) "Closed session" means that term as defined in the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(m) "Department" means the family independence agency.

(n) "Foster care" means care provided to a child in a foster family home, foster family group home, or child caring institution licensed or approved by the department under 1973 PA 116, MCL 722.111 to 722.128, or care provided to a child in a relative's home under a court order.

(o) "Office" means the children's ombudsman office established under section 3.

722.923 Children's ombudsman; establishment; appointment; removal.

Sec. 3. (1) As a means of effecting changes in policy, procedure, and legislation, educating the public, investigating and reviewing actions of the department, child placing agencies, or child caring institutions, monitoring and ensuring compliance with relevant statutes, rules, and policies pertaining to children's protective services and the placement, supervision, treatment, and improving delivery of care of children in foster care and adoptive homes, the children's ombudsman is established as an autonomous entity in the department of management and budget.

(2) The governor shall appoint an individual as the ombudsman, with the advice and consent of the senate. The individual shall be qualified by training and experience to perform the duties and exercise the powers of the children's ombudsman and the children's ombudsman office as provided in this act.

(3) The governor may remove the children's ombudsman from office for cause that includes, but is not limited to, incompetency to properly exercise duties, official misconduct, habitual or willful neglect of duty, or other misfeasance or malfeasance in connection with the operation of the office of the children's ombudsman. The governor shall report the reason for the removal to the legislature.

(4) The children's ombudsman serving in office on the effective date of the amendatory act that added this subsection shall serve at the pleasure of the governor.

722.924 Procedures.

Sec. 4. (1) The ombudsman shall establish procedures for the office for budgeting, expending money, and employing personnel according to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594. Subject to annual appropriations, the ombudsman shall employ sufficient personnel to carry out the duties and powers prescribed by this act.

(2) The ombudsman shall establish procedures for receiving and processing complaints from complainants and individuals not meeting the definition of complainant, conducting investigations, holding informal hearings, and reporting findings and recommendations resulting from investigations.

(3) Personnel employed by the office of the children's ombudsman shall receive mandatory training conducted by the Michigan domestic violence prevention and treatment board in domestic violence and in handling complaints of child abuse or child neglect that involve a history of domestic violence.

(4) Any individual may submit a complaint to the ombudsman. The ombudsman has the sole discretion and authority to determine if a complaint falls within his or her duties and powers to investigate and if a complaint involves an administrative act. The ombudsman may initiate an investigation without receiving a complaint. The ombudsman may initiate an investigation upon receipt of a complaint from an individual not meeting the definition of complainant. An individual not meeting the definition of complainant is not entitled to receive information under this act as if he or she is a complainant. The individual is entitled to receive the recommendations of the ombudsman and the department's response to the recommendations of the ombudsman in accordance with state and federal law. During the course of an investigation, the ombudsman may refer a case to the department if the ombudsman determines that the department received a complaint on the case, but did not conduct a field investigation. If the ombudsman refers a case to the department, the department shall conduct a field investigation of the case or provide notice to the ombudsman why a field investigation was not conducted, or what alternative steps may have been taken to address the situation. If a field investigation has been conducted, the department shall report the results to the ombudsman.

722.925 Individuals making complaint to children's ombudsman.

Sec. 5. All of the following individuals may make a complaint to the ombudsman with respect to a particular child, alleging that an administrative act is contrary to law, rule, or policy, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds:

(a) The child, if he or she is able to articulate a complaint.

(b) A biological parent of the child.

(c) A foster parent of the child.

(d) An adoptive parent or a prospective adoptive parent of the child.

(e) A legally appointed guardian of the child.

(f) A guardian ad litem of the child.

(g) An adult who is related to the child within the fifth degree by marriage, blood, or adoption, as defined in section 22 of the adoption code, MCL 710.22.

(h) A Michigan legislator.

(i) An individual required to report child abuse or child neglect under section 3 of the child protection law, 1975 PA 238, MCL 722.623.

(j) An attorney for any individual described in subdivisions (a) to (g).

722.925a Children's ombudsman; powers.

Sec. 5a. The children's ombudsman has the authority to do all of the following:

(a) Pursue all necessary action, including, but not limited to, legal action, to protect the rights and welfare of a child under the jurisdiction, control, or supervision of the department, the Michigan children's institute, the family division of circuit court under section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, a child caring institution, or a child placing agency.

(b) Pursue legislative advocacy in the best interests of children.

(c) Review policies and procedures relating to the department's involvement with children and make recommendations for improvement.

(d) Review each departmental death review team study in which the child's death may have resulted from child abuse or child neglect. As a result of the reviews, the ombudsman may recommend policies, measures, or procedures to prevent future similar occurrences.

722.926 Children's ombudsman; authority.

Sec. 6. The ombudsman may do all of the following in relation to a child who may be a victim of child abuse or child neglect:

(a) Upon his or her own initiative or upon receipt of a complaint, investigate an administrative act that is alleged to be contrary to law or rule, contrary to policy of the department or a child placing agency, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds. The ombudsman has sole discretion to determine if a complaint involves an administrative act.

(b) Decide, in his or her discretion, whether to investigate an administrative act.

(c) Upon its own initiative or upon receipt of a complaint from a complainant, conduct a preliminary investigation to determine whether an adoption attorney may have committed an administrative act that is alleged to be contrary to law, rule, or the Michigan rules of professional conduct adopted by the Michigan supreme court.

(d) Except as otherwise provided in this subdivision, access records and reports necessary to carry out the ombudsman's powers and duties under this act to the same extent and in the same manner as provided to the department under the provisions of the child protection law. The ombudsman shall be provided access to medical records in the same manner as access is provided to the department under section 16281 of the public health code, 1978 PA 368, MCL 333.16281. The ombudsman shall be provided access to mental health records in the same manner as access is provided to the department in section 748a of the mental health code, 1978 PA 258, MCL 330.1748a, subject to section 9. The ombudsman is subject to the same standards for safeguarding the confidentiality of information under this section and the same sanctions for unauthorized release of information as the department.

(e) Request a subpoena from a court requiring the production of a record or report necessary to carry out the ombudsman's duties and powers. If the person to whom a subpoena is issued fails or refuses to produce the record or report, the ombudsman may petition the court for enforcement of the subpoena.

(f) Hold informal hearings and request that individuals appear before the ombudsman and give testimony or produce documentary or other evidence that the ombudsman considers relevant to a matter under investigation.

(g) Make recommendations to the governor and the legislature concerning the need for children's protective services, adoption, or foster care legislation, policy, or practice without prior review by other offices, departments, or agencies in the executive branch in order to facilitate rapid implementation of recommendations or for suggested improvements to the recommendations. However, no other office, department, or agency shall prohibit the release of an ombudsman's recommendation to the governor or the legislature.

722.927 Decision to investigate; notice; misconduct by adoption attorney; pursuing administrative remedies or channels of complaint; further investigation; violation of state or federal criminal law; complaint against child placing agency; petition requesting court jurisdiction or termination of parental rights.

Sec. 7. (1) Upon deciding to investigate a complaint, from a complainant and an individual not meeting the definition of complainant, the ombudsman shall notify the complainant or the individual not meeting the definition of complainant of the decision to investigate and shall notify the department, adoption attorney, or child placing agency of the intention to investigate. If the ombudsman declines to investigate a complaint or continue an investigation, the ombudsman shall notify the complainant or the individual not meeting the definition of complainant and the department, adoption attorney, or child placing agency of the decision and of the reasons for the ombudsman's action.

(2) If the preliminary investigation described in section 6 leads the ombudsman to believe that the matter may involve misconduct by an adoption attorney, the ombudsman shall immediately refer the complaint to the attorney grievance commission of the state bar of Michigan.

(3) The ombudsman shall advise a complainant of administrative remedies and may advise the individual to pursue all administrative remedies or channels of complaint open to the complainant before pursuing a complaint with the ombudsman. Subsequent to the administrative processing of a complaint, the ombudsman may conduct further investigations of a complaint upon the request of the complainant or upon the ombudsman's own initiative.

(4) If the ombudsman finds in the course of an investigation that an individual's action is in violation of state or federal criminal law, the ombudsman shall immediately report that fact to the county prosecutor or the attorney general. If the complaint is against a child placing agency, the ombudsman shall refer the matter to the department for further action with respect to licensing.

(5) The ombudsman may file a petition on behalf of a child requesting the court to take jurisdiction under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or a petition for termination of parental rights under section 19b of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.19b, if the ombudsman is satisfied that the complainant has contacted the department, the prosecuting attorney, the child's attorney, and the child's guardian ad litem, if any, and that none of these persons intend to file a petition as described in this subsection.

722.928 Family independence agency and child placing agency; duties; information to be provided to biological parent, adoptive parent, or foster parent; access to departmental computer networks.

Sec. 8. (1) The department and a child placing agency shall do all of the following:

(a) Upon the ombudsman's request, grant the ombudsman or his or her designee access to all information, records, and documents in the possession of the department or child placing agency that the ombudsman considers relevant and necessary in an investigation.

(b) Assist the ombudsman to obtain the necessary releases of those documents that are specifically restricted.

(c) Upon the ombudsman's request, provide the ombudsman with progress reports concerning the administrative processing of a complaint.

(d) Upon the ombudsman's request, provide the ombudsman information he or she requests under subdivision (a) within 10 business days after the request. If the department determines that release of the information would violate federal or state law, the ombudsman shall be notified of that determination within the same 10-day deadline.

(2) The department, an attorney involved with an adoption, and a child placing agency shall provide information to a biological parent, prospective adoptive parent, or foster parent regarding the provisions of this act.

(3) The ombudsman, the department, and the department of information technology shall enter an agreement not later than June 30, 2005 that shall ensure that the ombudsman has access, in the ombudsman's own office, to departmental computer networks pertaining to protective services, foster care, and adoption, including the central registry, service workers support system/foster care, adoption, juvenile justice (SWSS), and customer information management system (CIMS) unless otherwise prohibited by state or federal law, or the release of the information to the ombudsman would jeopardize federal funding. The cost of implementing this subsection shall be negotiated among the office of the children's ombudsman, the department, and the department of information technology.

722.929 Confidentiality of record of ombudsman; disclosure; limitations.

Sec. 9. (1) Subject to subsections (2) through (7), a record of the children's ombudsman's office is confidential, shall only be used for purposes set forth in this act, is not subject to court subpoena, and is not discoverable in a legal proceeding. A record of the children's ombudsman's office is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. If the ombudsman identifies action or inaction by the state, through its agencies or services, that failed to protect children, the ombudsman shall provide his or her findings and recommendations to the agency affected by those findings, and make those findings and recommendations available to the complainant and the legislature upon request, to the extent consistent with state or federal law. The ombudsman shall not disclose any information that impairs the rights of the child or the child's parents or guardians.

(2) The ombudsman may release information to a complainant or to a closed session of a legislative committee that has jurisdiction over family and children's services issues regarding the department's handling of a case under the child protection law that is obtained or generated during an investigation conducted by the office.

(3) Unless otherwise part of the public record, the office shall not release any of the following confidential information to the general public:

(a) Records relating to mental health evaluation or treatment of a parent or child.

(b) Records relating to the evaluation or treatment of a substance abuse-related disorder of a parent or child.

(c) Records relating to medical diagnosis or treatment of a parent or child.

(d) Records relating to domestic violence-related services and sexual assault services provided to a parent or child.

(e) Records relating to educational services provided to a parent or child.

(4) Notwithstanding subsection (3), if the ombudsman determines that disclosure of confidential information is necessary to identify, prevent, or respond to the abuse or neglect of a child, the ombudsman may disclose information in his or her possession to the department or a court. The ombudsman shall not release the address, telephone number, or other information regarding the whereabouts of a victim or suspected victim of domestic violence unless ordered to by a court.

(5) The ombudsman shall not disclose information relating to an ongoing law enforcement investigation or an ongoing children's protective services investigation.

(6) The ombudsman shall not disclose the identity of an individual making a child abuse or neglect complaint under the child protection law unless that individual's written permission is obtained first or a court has ordered the ombudsman to release that information.

(7) The ombudsman may release an individual's identity who makes an intentionally false report of child abuse or neglect under the child protection law.

722.930 Report of findings; recommendations; consultation with individual, department, or child placing agency; publication of adverse opinion; notice of actions; information provided to complainant; report.

Sec. 10. (1) The ombudsman shall prepare a report of the factual findings of an investigation and make recommendations to the department or child placing agency if the ombudsman finds 1 or more of the following:

(a) A matter should be further considered by the department or child placing agency.

(b) An administrative act or omission should be modified, canceled, or corrected.

(c) Reasons should be given for an administrative act or omission.

(d) Other action should be taken by the department or child placing agency.

(2) Before announcing a conclusion or recommendation that expressly or by implication criticizes an individual, the department, or a child placing agency, the ombudsman shall consult with that individual, the department, or the child placing agency. When publishing an opinion adverse to the department or child placing agency, the ombudsman shall include in the publication any statement of reasonable length made to the ombudsman by the department or child placing agency in defense or mitigation of the action. The ombudsman may request to be notified by the department or child placing agency, within a specified time, of any action taken on any recommendation presented.

(3) The ombudsman shall notify the complainant of the actions taken by the ombudsman and by the department or child placing agency.

(4) The ombudsman may provide to the complainant the following information:

(a) A copy of the ombudsman's report regarding the investigation's findings, recommendations to the department made according to the investigation, the department's response to the ombudsman's findings and recommendations, and any epilogue to the ombudsman's report and the department's response.

(b) Information that has otherwise been made public.

(5) The ombudsman shall not release information to the individual making the complaint that will endanger the health or welfare of a child or another individual.

(6) The ombudsman shall submit to the governor, the director of the department, and the legislature an annual report on the ombudsman's conduct, including any recommendations regarding the need for legislation or for change in rules or policies.

722.931 Penalty for filing complaint or cooperating in investigation prohibited; intentional false complaint.

Sec. 11. (1) Subject to subsection (4), an official, the department, or a child placing agency shall not penalize any person for filing a complaint or cooperating with the ombudsman in investigating a complaint.

(2) An individual, the department, an adoption attorney, or a child placing agency shall not hinder the lawful actions of the ombudsman or employees of the ombudsman.

(3) A report by the ombudsman is not subject to prior approval by a person outside of the office.

(4) An individual who intentionally makes a false complaint of child abuse or neglect under this act is subject to the penalties contained in section 13(5) of the child protection law, MCL 722.633.

Repeal of MCL 722.933, 722.934, and 722.935.

Enacting section 1. Sections 13, 14, and 15 of the children's ombudsman act, 1994 PA 204, MCL 722.933, 722.934, and 722.935, are repealed.

Repeal of MCL 722.936; effective date.

Enacting section 2. Section 6(e) of the children's ombudsman act, 1994 PA 204, MCL 722.936, is repealed 5 years after the effective date of this amendatory act.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

Compiler's note: MCL 722.936, referred to in enacting section 2, should evidently read MCL 722.926.

[No. 561]

(HB 4187)

AN ACT to amend 1991 PA 179, entitled "An act to regulate and insure the availability of certain telecommunication services; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties; to repeal certain acts and parts of acts; and to repeal this act on a specific date," (MCL 484.2101 to 484.2701) by adding section 312c.

The People of the State of Michigan enact:

484.2312c Use of payphone or toll service; receipt of rate quote; exception; "consumer" defined.

Sec. 312c. (1) Before connecting any call, the operator service provider that owns or operates the payphone or contracts to provide toll service for the payphone provider shall at no charge disclose, audibly and distinctly, how the consumer may receive a rate quote.

(2) To receive a rate quote, the consumer shall have the option of either pressing a sequence of not more than 2 keys or staying on the line for assistance.

(3) The consumer shall not be assessed any charge for the use of the payphone or toll service if the consumer terminates the call after receiving the rate quote.

(4) This section does not apply to calls made by a consumer utilizing his or her toll provider of choice by dialing the provider's access service method.

(5) As used in this section, "consumer" means a person initiating a telephone call using an operator service. In collect calling arrangements handled by an operator service provider, the term consumer includes the party on the terminating end of the call. For bill-to-third party calling arrangements handled by an operator service provider, the term consumer includes the party to be billed for the call if that party is contacted by the operator service provider to secure billing approval.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

[No. 562]

(HB 4406)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 14701, 14702, 14703, and 14705 (MCL 324.14701, 324.14702, 324.14703, and 324.14705) and by amending the part heading for part 147 and by adding sections 14722 and 14725.

The People of the State of Michigan enact:

PART 147 CHEMICAL SUBSTANCES

SUBPART 1 PCB COMPOUNDS

324.14701 Definitions.

Sec. 14701. As used in this subpart:

(a) "Department" means the department of environmental quality.

(b) "PCB" means the class of chlorinated biphenyl, terphenyl, higher polyphenyl, or mixtures of these compounds produced by replacing 2 or more hydrogen atoms on the biphenyl, terphenyl, or higher polyphenyl molecule with chlorine atoms. PCB does not include chlorinated biphenyls, terphenyls, higher polyphenyls, or mixtures of these compounds that have functional groups attached other than chlorine unless that functional group on

the chlorinated biphenyls, terphenyls, higher polyphenyls, or mixtures of these compounds is determined to be dangerous to the public health, safety, and welfare under section 14703.

(c) "Ppm" means parts per million.

324.14702 Department of environmental quality; responsibility; rules.

Sec. 14702. The department is responsible for the administration and implementation of this subpart to protect the public health, safety, and welfare from the toxic effects and environmental dangers of PCB. The department shall promulgate rules to implement and administer this subpart.

324.14703 Determination by rule of sufficient danger; recommendation of special committee.

Sec. 14703. After receiving a recommendation by affirmative majority vote of a special committee consisting of a representative of the department, the director of labor and economic growth, and the director of the department of community health, the department shall by rule determine, within the concentrations prescribed by this subpart, whether the chlorinated biphenyls, terphenyls, higher polyphenyls, or mixtures of these compounds named in the recommendation and having certain functional groups in addition to chlorine attached to the molecule constitute a sufficient danger to the public health, safety, and welfare as to be regulated as a PCB by this subpart.

324.14705 Violation as misdemeanor; penalty.

Sec. 14705. A person who violates this subpart or a rule promulgated under this subpart is guilty of a misdemeanor punishable by a fine of not less than $2,500.00 or more than $25,000.00. Each day that a violation of this subpart or a rule promulgated under this subpart continues shall be considered a separate violation.

324.14722 Product or material containing penta-BDE; limitation; exceptions.

Sec. 14722. (1) Beginning June 1, 2006, a person shall not manufacture, process, or distribute a product or material that contains more than 1/10 of 1% of penta-BDE.

(2) This section does not apply to either of the following:

(a) Original equipment manufacturer replacement parts.

(b) The processing of recyclables containing penta-BDE in compliance with applicable federal, state, and local laws.

324.14725 Violation as misdemeanor; penalty.

Sec. 14725. A person who violates this subpart is guilty of a misdemeanor punishable by a fine of not less than $2,500.00 or more than $25,000.00. Each day that a violation of this subpart continues shall be considered a separate violation.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1458 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

Compiler's note: Senate Bill No. 1458, referred to in enacting section 1, became P.A. 2004, No. 526, Imd. Eff. Jan. 3, 2005.

[No. 563]

(HB 4586)

AN ACT to amend 1975 PA 238, entitled "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts," by amending sections 2, 5, 7, 7c, and 7j (MCL 722.622, 722.625, 722.627, 722.627c, and 722.627j), section 2 as amended by 2002 PA 693, section 5 as amended and section 7c as added by 1998 PA 428, section 7 as amended by 2002 PA 661, and section 7j as added by 2002 PA 716.

The People of the State of Michigan enact:

722.622 Definitions.

Sec. 2. As used in this act:

(a) "Adult foster care location authorized to care for a child" means an 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, in which a child is placed in accordance with section 5 of 1973 PA 116, MCL 722.115.

(b) "Attorney" means, if appointed to represent a child under the provisions referenced in section 10, an attorney serving as the child's legal advocate in the manner defined and described in section 13a of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.13a.

(c) "Central registry" means the system maintained at the department that is used to keep a record of all reports filed with the department under this act in which relevant and accurate evidence of child abuse or neglect is found to exist.

(d) "Central registry case" means a child protective services case that the department classifies under sections 8 and 8d as category I or category II. For a child protective services case that was investigated before July 1, 1999, central registry case means an allegation of child abuse or neglect that the department substantiated.

(e) "Child" means a person under 18 years of age.

(f) "Child abuse" means 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 the clergy.

(g) "Child care organization" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(h) "Child care provider" means an owner, operator, employee, or volunteer of a child care organization or of an adult foster care location authorized to care for a child.

(i) "Child care regulatory agency" means the department of consumer and industry services or a successor state department that is responsible for the licensing or registration

of child care organizations or the licensing of adult foster care locations authorized to care for a child.

(j) "Child neglect" means 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:

(*i*) Negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care.

(*ii*) Placing a child at an unreasonable risk to the child's health or welfare by failure of the parent, legal guardian, or 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.

(k) "Citizen review panel" means a panel established as required by section 106 of title I of the child abuse prevention and treatment act, Public Law 93-247, 42 U.S.C. 5106a.

(*l*) "Member of the clergy" means a priest, minister, rabbi, Christian science practitioner, or other religious practitioner, or similar functionary of a church, temple, or recognized religious body, denomination, or organization.

(m) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(n) "CPSI system" means the child protective service information system, which is an internal data system maintained within and by the department, and which is separate from the central registry and not subject to section 7.

(o) "Department" means the family independence agency.

(p) "Director" means the director of the department.

(q) "Expunge" means to physically remove or eliminate and destroy a record or report.

(r) "Lawyer-guardian ad litem" means an attorney appointed under section 10 who has the powers and duties referenced by section 10.

(s) "Local office file" means the system used to keep a record of a written report, document, or photograph filed with and maintained by a county or a regionally based office of the department.

(t) "Nonparent adult" means a person who is 18 years of age or older and who, regardless of the person's domicile, meets all of the following criteria in relation to a child:

(*i*) Has substantial and regular contact with the child.

(*ii*) Has a close personal relationship with the child's parent or with a person responsible for the child's health or welfare.

(*iii*) Is not the child's parent or a person otherwise related to the child by blood or affinity to the third degree.

(u) "Person responsible for the child's health or welfare" means a parent, legal guardian, person 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(2)(e) or 8(8), nonparent adult; or an owner, operator, volunteer, or employee of 1 or more of the following:

(*i*) A licensed or registered child care organization.

(*ii*) 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.

(v) "Relevant evidence" means evidence having a tendency to make the existence of a fact that is at issue more probable than it would be without the evidence.

(w) "Sexual abuse" means engaging in sexual contact or sexual penetration as those terms are defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a, with a child.

(x) "Sexual exploitation" includes 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.

(y) "Specified information" means information in a children's protective services case record related specifically to the department's actions in responding to a complaint of child abuse or neglect. Specified information does not include any of the following:

(*i*) Except as provided in this subparagraph regarding a perpetrator of child abuse or neglect, personal identification information for any individual identified in a child protective services record. The exclusion of personal identification information as specified information prescribed by this subparagraph does not include personal identification information identifying an individual alleged to have perpetrated child abuse or neglect, which allegation has been classified as a central registry case.

(*ii*) Information in a law enforcement report as provided in section 7(8).

(*iii*) Any other information that is specifically designated as confidential under other law.

(*iv*) Any information not related to the department's actions in responding to a report of child abuse or neglect.

(z) "Structured decision-making tool" means the department document labeled "DSS-4752 (P3) (3-95)" or a revision of that document that better measures the risk of future harm to a child.

(aa) "Substantiated" means a child protective services case classified as a central registry case.

(bb) "Unsubstantiated" means a child protective services case the department classifies under sections 8 and 8d as category III, category IV, or category V.

722.625 Identity of reporting person; confidentiality; disclosure; immunity; good faith presumed.

Sec. 5. Except for records available under section 7(2)(a), (b), and (n), the identity of a reporting person is confidential subject to disclosure only with the consent of that person or by judicial process. A person acting in good faith who makes a report, cooperates in an investigation, or assists in any other requirement of this act is immune from civil or criminal liability that might otherwise be incurred by that action. A person making a report or assisting in any other requirement of this act is presumed to have acted in good faith. This immunity from civil or criminal liability extends only to acts done according to this act and does not extend to a negligent act that causes personal injury or death or to the malpractice of a physician that results in personal injury or death.

722.627 Central registry; availability of confidential records; closed court proceeding not required; notice to individuals; amending or expunging certain reports and records; hearing; evidence; release of reports compiled by law enforcement agency; information obtained by citizen review panel.

Sec. 7. (1) The department shall maintain a statewide, electronic central registry to carry out the intent of this act.

(2) Unless made public as specified information released under section 7d, a written report, document, or photograph filed with the department as provided in this act is a confidential record available only to 1 or more of the following:

(a) A legally mandated public or private child protective agency investigating a report of known or suspected child abuse or neglect.

(b) A police or other law enforcement agency investigating a report of known or suspected child abuse or neglect.

(c) A physician who is treating a child whom the physician reasonably suspects may be abused or neglected.

(d) A person legally authorized to place a child in protective custody when the person is confronted with a child whom the person reasonably suspects may be abused or neglected and the confidential record is necessary to determine whether to place the child in protective custody.

(e) A person, agency, or organization, including a multidisciplinary case consultation team, authorized to diagnose, care for, treat, or supervise a child or family who is the subject of a report or record under this act, or who is responsible for the child's health or welfare.

(f) A person named in the report or record as a perpetrator or alleged perpetrator of the child abuse or neglect or a victim who is an adult at the time of the request, if the identity of the reporting person is protected as provided in section 5.

(g) A court that determines the information is necessary to decide an issue before the court.

(h) A grand jury that determines the information is necessary to conduct the grand jury's official business.

(i) A person, agency, or organization engaged in a bona fide research or evaluation project. The person, agency, or organization shall not release information identifying a person named in the report or record unless that person's written consent is obtained. The person, agency, or organization shall not conduct a personal interview with a family without the family's prior consent and shall not disclose information that would identify the child or the child's family or other identifying information. The department director may authorize the release of information to a person, agency, or organization described in this subdivision if the release contributes to the purposes of this act and the person, agency, or organization has appropriate controls to maintain the confidentiality of personally identifying information for a person named in a report or record made under this act.

(j) A lawyer-guardian ad litem or other attorney appointed as provided by section 10.

(k) A child placing agency licensed under 1973 PA 116, MCL 722.111 to 722.128, for the purpose of investigating an applicant for adoption, a foster care applicant or licensee or an employee of a foster care applicant or licensee, an adult member of an applicant's or licensee's household, or other persons in a foster care or adoptive home who are directly responsible for the care and welfare of children, to determine suitability of a home for adoption or foster care. The child placing agency shall disclose the information to a foster care applicant or licensee under 1973 PA 116, MCL 722.111 to 722.128, or to an applicant for adoption.

(*l*) Family division of circuit court staff authorized by the court to investigate foster care applicants and licensees, employees of foster care applicants and licensees, adult members of the applicant's or licensee's household, and other persons in the home who are directly responsible for the care and welfare of children, for the purpose of determining

the suitability of the home for foster care. The court shall disclose this information to the applicant or licensee.

(m) Subject to section 7a, a standing or select committee or appropriations subcommittee of either house of the legislature having jurisdiction over child protective services matters.

(n) The children's ombudsman appointed under the children's ombudsman act, 1994 PA 204, MCL 722.921 to 722.935.

(o) A child fatality review team established under section 7b and authorized under that section to investigate and review a child death.

(p) A county medical examiner or deputy county medical examiner appointed under 1953 PA 181, MCL 52.201 to 52.216, for the purpose of carrying out his or her duties under that act.

(q) A citizen review panel established by the department. Access under this subdivision is limited to information the department determines is necessary for the panel to carry out its prescribed duties.

(r) A child care regulatory agency.

(s) A foster care review board for the purpose of meeting the requirements of 1984 PA 422, MCL 722.131 to 722.139a.

(3) Subject to subsection (9), a person or entity to whom information described in subsection (2) is disclosed shall make the information available only to a person or entity described in subsection (2). This subsection does not require a court proceeding to be closed that otherwise would be open to the public.

(4) If the department classifies a report of suspected child abuse or neglect as a central registry case, the department shall maintain a record in the central registry and, within 30 days after the classification, shall notify in writing each person who is named in the record as a perpetrator of the child abuse or neglect. The notice shall set forth the person's right to request expunction of the record and the right to a hearing if the department refuses the request. The notice shall state that the record may be released under section 7d. The notice shall not identify the person reporting the suspected child abuse or neglect.

(5) A person who is the subject of a report or record made under this act may request the department to amend an inaccurate report or record from the central registry and local office file. A person who is the subject of a report or record made under this act may request the department to expunge from the central registry a report or record in which no relevant and accurate evidence of abuse or neglect is found to exist. A report or record filed in a local office file is not subject to expunction except as the department authorizes, if considered in the best interest of the child.

(6) If the department refuses a request for amendment or expunction under subsection (5), or fails to act within 30 days after receiving the request, the department shall hold a hearing to determine by a preponderance of the evidence whether the report or record in whole or in part should be amended or expunged from the central registry on the grounds that the report or record is not relevant or accurate evidence of abuse or neglect. The hearing shall be held before a hearing officer appointed by the department and shall be conducted as prescribed by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(7) If the investigation of a report conducted under this act fails to disclose evidence of abuse or neglect, the information identifying the subject of the report shall be expunged from the central registry. If evidence of abuse or neglect exists, the department shall

maintain the information in the central registry until the department receives reliable information that the perpetrator of the abuse or neglect is dead.

(8) In releasing information under this act, the department shall not include a report compiled by a police agency or other law enforcement agency related to an ongoing investigation of suspected child abuse or neglect. This subsection does not prevent the department from releasing reports of convictions of crimes related to child abuse or neglect.

(9) A member or staff member of a citizen review panel shall not disclose identifying information about a specific child protection case to an individual, partnership, corporation, association, governmental entity, or other legal entity. A member or staff member of a citizen review panel is a member of a board, council, commission, or statutorily created task force of a governmental agency for the purposes of section 7 of 1964 PA 170, MCL 691.1407. Information obtained by a citizen review panel is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

722.627c Release of information from child protective services records or case in which child has died; decision by director; determination.

Sec. 7c. (1) Sections 7d to 7i govern the director's decisions to release specified information from child protective services records.

(2) The director shall release specified information in a child abuse or neglect case in which a child who was a part of the case has died.

(3) The director may designate another individual to act for the director under sections 7d to 7i, and a reference to the director under those sections applies to an individual designated by the director.

(4) For the purposes of sections 7d to 7i, a child's best interest shall be determined based on all of the following:

(a) Protection of the child's safety.

(b) Preservation of the child's physical, mental, and emotional health.

(c) Consideration of the child's likelihood of establishing a successful and timely permanent family and community relationship.

(5) Sections 7d to 7i do not subject a report or record that is confidential under this act to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

722.627j Individual not named in central registry case as perpetrator of child abuse or neglect; documentation; request; automated system; definitions.

Sec. 7j. (1) Upon written request, the department may provide to an individual documentation stating that the individual is not named in a central registry case as the perpetrator of child abuse or child neglect. The written request required under this section shall include the individual's affirmation that he or she is employed by, volunteers at, is applying for employment in, or is seeking to volunteer in a child care center, child caring institution, or child placing agency.

(2) For the purpose of applying for employment or seeking to volunteer in a child care center, child caring institution, or child placing agency, an individual may share the document provided in subsection (1) with the child care center owner or licensee, or a child caring institution or child placing agency, or an individual authorized by the child care center owner or licensee, the child caring institution, or the child placing agency.