

**STATE OF MICHIGAN  
IN THE SUPREME COURT OF MICHIGAN  
APPEAL FROM THE COURT OF APPEALS**

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In re Baby Boy Doe, Minor

Michigan Supreme Court  
Docket No. 163807

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Peter Kruithoff,  
Petitioner – Appellee/Cross-Appellee,

Court of Appeals  
Docket No. 353796

v

Catholic Charities of West Michigan,  
Respondent – Appellant,

Lower Court No. 2018-6540-NB  
9<sup>th</sup> Circuit Court, Kalamazoo County  
Circuit Court Judge:  
Hon. Julie K. Phillips

and

Adoptive Parent Number 1 and  
Adoptive Parent Number 2,  
Appellees – Cross-Appellants

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**PETITIONER-APPELLEE/CROSS-APPELLEE’S  
APPENDIX TO SUPPLEMENTAL BRIEF**

Appendix	Document Description
A	325 ILCS 2/ Abandoned Newborn Infant Protection Act
B	Official Order of the Michigan State Police as to Juvenile Offenders, Surrendered Newborns, Mentally Ill Persons, Missing Persons and Vulnerable Adults
C	United Nations Office of the High Commissioner <i>Special Rapporteur on the Sale of Children</i>
D	The Detroit Office of the Federal Bureau of Investigations Warns the Public about Domestic Adoption Fraud Schemes

**A**

**Information maintained by the Legislative Reference Bureau**

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**CHILDREN**  
**(325 ILCS 2/) Abandoned Newborn Infant Protection Act.**

(325 ILCS 2/1)

Sec. 1. Short title. This Act may be cited as the Abandoned Newborn Infant Protection Act.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

(325 ILCS 2/5)

Sec. 5. Public policy. Illinois recognizes that newborn infants have been abandoned to the environment or to other circumstances that may be unsafe to the newborn infant. These circumstances have caused injury and death to newborn infants and give rise to potential civil or criminal liability to parents who may be under severe emotional distress. This Act is intended to provide a mechanism for a newborn infant to be relinquished to a safe environment and for the parents of the infant to remain anonymous if they choose and to avoid civil or criminal liability for the act of relinquishing the infant. It is recognized that establishing an adoption plan is preferable to relinquishing a child using the procedures outlined in this Act, but to reduce the chance of injury to a newborn infant, this Act provides a safer alternative.

A public information campaign on this delicate issue shall be implemented to encourage parents considering abandonment of their newborn child to relinquish the child under the procedures outlined in this Act, to choose a traditional adoption plan, or to parent a child themselves rather than place the newborn infant in harm's way.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

(325 ILCS 2/10)

Sec. 10. Definitions. In this Act:

"Abandon" has the same meaning as in the Abused and Neglected Child Reporting Act.

"Abused child" has the same meaning as in the Abused and Neglected Child Reporting Act.

"Child-placing agency" means a licensed public or private agency that receives a child for the purpose of placing or arranging for the placement of the child in a foster family home or other facility for child care, apart from the custody of the child's parents.

"Department" or "DCFS" means the Illinois Department of Children and Family Services.

"Emergency medical facility" means a freestanding emergency center or trauma center, as defined in the Emergency Medical Services (EMS) Systems Act.

"Emergency medical professional" includes licensed physicians, and any emergency medical technician, emergency medical technician-intermediate, advanced emergency medical technician, paramedic, trauma nurse specialist, and pre-hospital registered nurse, as defined in the Emergency Medical Services (EMS) Systems Act.

"Fire station" means a fire station within the State with at least one staff person.

"Hospital" has the same meaning as in the Hospital Licensing Act.

"Legal custody" means the relationship created by a court order in the best interest of a newborn infant that imposes on the infant's custodian the responsibility of physical possession of the infant, the duty to protect, train, and discipline the infant, and the duty to provide the infant with food, shelter, education, and medical care, except as these are limited by parental rights and responsibilities.

"Neglected child" has the same meaning as in the Abused and Neglected Child Reporting Act.

"Newborn infant" means a child who a licensed physician reasonably believes is 30 days old or less at the time the child is initially relinquished to a hospital, police station, fire station, or emergency medical facility, and who is not an abused or a neglected child.

"Police station" means a municipal police station, a county sheriff's office, a campus police department located on any college or university owned or controlled by the State or any private college or private university that is not owned or controlled by the State when employees of the campus police department are present, or any of the district headquarters of the Illinois State Police.

"Relinquish" means to bring a newborn infant, who a licensed physician reasonably believes is 30 days old or less, to a hospital, police station, fire station, or emergency medical facility and to leave the infant with personnel of the facility, if the person leaving the infant does not express an intent to return for the infant or states that he or she will not return for the infant. In the case of a mother who gives birth to an infant in a hospital, the mother's act of leaving that newborn infant at the hospital (i) without expressing an intent to return for the infant or (ii) stating that she will not return for the infant is not a "relinquishment" under this Act.

"Temporary protective custody" means the temporary placement of a newborn infant within a hospital or other medical facility out of the custody of the infant's parent.

(Source: P.A. 97-293, eff. 8-11-11; 98-973, eff. 8-15-14.)

(325 ILCS 2/15)

Sec. 15. Presumptions.

(a) There is a presumption that by relinquishing a newborn infant in accordance with this Act, the infant's parent consents to the termination of his or her parental rights with respect to the infant.

(b) There is a presumption that a person relinquishing a newborn infant in accordance with this Act:

(1) is the newborn infant's biological parent; and

(2) either without expressing an intent to return for the infant or expressing an intent not to return for the infant, did intend to relinquish the infant to the hospital, police station, fire station, or emergency medical facility to treat, care for, and provide for the infant in accordance with this Act.

(c) A parent of a relinquished newborn infant may rebut the presumption set forth in either subsection (a) or subsection (b) pursuant to Section 55, at any time before the termination of the parent's parental rights.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01; 93-820, eff. 7-27-04.)

(325 ILCS 2/20)

Sec. 20. Procedures with respect to relinquished newborn infants.

(a) Hospitals. Every hospital must accept and provide all necessary emergency services and care to a relinquished newborn infant, in accordance with this Act. The hospital shall examine a relinquished newborn infant and perform tests that, based on reasonable medical judgment, are appropriate in evaluating whether the relinquished newborn infant was abused or neglected.

The act of relinquishing a newborn infant serves as implied consent for the hospital and its medical personnel and physicians on staff to treat and provide care for the infant.

The hospital shall be deemed to have temporary protective custody of a relinquished newborn infant until the infant is discharged to the custody of a child-placing agency or the Department.

(b) Fire stations and emergency medical facilities. Every fire station and emergency medical facility must accept and provide all necessary emergency services and care to a relinquished newborn infant, in accordance with this Act.

The act of relinquishing a newborn infant serves as implied consent for the fire station or emergency medical facility and its emergency medical professionals to treat and provide care for the infant, to the extent that those emergency medical professionals are trained to provide those services.

After the relinquishment of a newborn infant to a fire station or emergency medical facility, the fire station or emergency medical facility's personnel must arrange for the transportation of the infant to the nearest hospital as soon as transportation can be arranged.

If the parent of a newborn infant returns to reclaim the child within 72 hours after relinquishing the child to a fire station or emergency medical facility, the fire station or emergency medical facility must inform the parent of the name and location of the hospital to which the infant was transported.

(c) Police stations. Every police station must accept a relinquished newborn infant, in accordance with this Act. After the relinquishment of a newborn infant to a police station, the police station must arrange for the transportation of the infant to the nearest hospital as soon as transportation can be arranged. The act of relinquishing a newborn infant serves as implied consent for the hospital to which the infant is transported and that hospital's medical personnel and physicians on staff to treat and provide care for the infant.

If the parent of a newborn infant returns to reclaim the infant within 72 hours after relinquishing the infant to a police station, the police station must inform the parent of the name and location of the hospital to which the infant was transported.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01; 93-820, eff. 7-27-04.)

(325 ILCS 2/22)

Sec. 22. Signs. Every hospital, fire station, emergency medical facility, and police station that is required to accept a relinquished newborn infant in accordance with this Act must post, either by physical or electronic means, a sign in a conspicuous place on the exterior of the building housing the facility informing persons that a newborn infant may be relinquished at the facility in accordance with this Act. The Department shall prescribe specifications for the signs and for their placement that will ensure statewide uniformity.

This Section does not apply to a hospital, fire station,

emergency medical facility, or police station that has a sign that is consistent with the requirements of this Section that is posted on the effective date of this amendatory Act of the 95th General Assembly.

(Source: P.A. 102-4, eff. 4-27-21.)

(325 ILCS 2/25)

Sec. 25. Immunity for relinquishing person.

(a) The act of relinquishing a newborn infant to a hospital, police station, fire station, or emergency medical facility in accordance with this Act does not, by itself, constitute a basis for a finding of abuse, neglect, or abandonment of the infant pursuant to the laws of this State nor does it, by itself, constitute a violation of Section 12C-5 or 12C-10 of the Criminal Code of 2012.

(b) If there is suspected child abuse or neglect that is not based solely on the newborn infant's relinquishment to a hospital, police station, fire station, or emergency medical facility, the personnel of the hospital, police station, fire station, or emergency medical facility who are mandated reporters under the Abused and Neglected Child Reporting Act must report the abuse or neglect pursuant to that Act.

(c) Neither a child protective investigation nor a criminal investigation may be initiated solely because a newborn infant is relinquished pursuant to this Act.

(Source: P.A. 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)

(325 ILCS 2/27)

Sec. 27. Immunity of facility and personnel. A hospital, police station, fire station, or emergency medical facility, and any personnel of a hospital, police station, fire station, or emergency medical facility, are immune from criminal or civil liability for acting in good faith in accordance with this Act. Nothing in this Act limits liability for negligence for care and medical treatment.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01; 93-820, eff. 7-27-04.)

(325 ILCS 2/30)

Sec. 30. Anonymity of relinquishing person. If there is no evidence of abuse or neglect of a relinquished newborn infant, the relinquishing person has the right to remain anonymous and to leave the hospital, police station, fire station, or emergency medical facility at any time and not be pursued or followed. Before the relinquishing person leaves the hospital, police station, fire station, or emergency medical facility, the hospital, police station, fire station, or emergency medical facility personnel shall (i) verbally inform the relinquishing person that by relinquishing the child anonymously, he or she will have to petition the court if he or she desires to prevent the termination of parental rights and regain custody of the child and (ii) shall offer the relinquishing person the information packet described in Section 35 of this Act. However, nothing in this Act shall be construed as precluding the relinquishing person from providing his or her identity or completing the application forms for the Illinois Adoption Registry and Medical Information Exchange and requesting that the hospital, police station, fire station, or emergency medical facility forward those forms to the Illinois Adoption Registry and Medical Information Exchange.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01; 93-820, eff. 7-27-04.)

(325 ILCS 2/35)

Sec. 35. Information for relinquishing person.

(a) A hospital, police station, fire station, or emergency medical facility that receives a newborn infant relinquished in accordance with this Act must offer an information packet to the relinquishing person and, if possible, must clearly inform the relinquishing person that his or her acceptance of the information is completely voluntary. The information packet must include all of the following:

(1) (Blank).

(2) Written notice of the following:

(A) No sooner than 60 days following the date of the initial relinquishment of the infant to a hospital, police station, fire station, or emergency medical facility, the child-placing agency or the Department will commence proceedings for the termination of parental rights and placement of the infant for adoption.

(B) Failure of a parent of the infant to contact the Department and petition for the return of custody of the infant before termination of parental rights bars any future action asserting legal rights with respect to the infant.

(3) A resource list of providers of counseling services including grief counseling, pregnancy counseling, and counseling regarding adoption and other available options for placement of the infant.

Upon request of a parent, the Department of Public Health shall provide the application forms for the Illinois Adoption Registry and Medical Information Exchange.

(b) The information packet given to a relinquishing parent in accordance with this Act shall include, in addition to other information required under this Act, the following:

(1) A brochure (with a self-mailer attached) that describes this Act and the rights of birth parents, including an optional section for the parent to complete and mail to the Department of Children and Family Services, that shall ask for basic anonymous background information about the relinquished child. This brochure shall be maintained by the Department on its website.

(2) A brochure that describes the Illinois Adoption Registry, including a toll-free number and website information. This brochure shall be maintained on the Office of Vital Records website.

(3) A brochure describing postpartum health information for the mother.

The information packet shall be designed in coordination between the Office of Vital Records and the Department of Children and Family Services, with the exception of the resource list of providers of counseling services and adoption agencies, which shall be provided by the hospital, fire station, police station, sheriff's office, or emergency medical facility.

(Source: P.A. 96-1114, eff. 7-20-10; 97-333, eff. 8-12-11.)

(325 ILCS 2/37)

Sec. 37. Public disclosure of information prohibited. Emergency medical professionals, employees, or other persons engaged in the administration or operation of a fire station, police station, hospital, emergency medical facility, child placing agency, or the Department where a baby has been relinquished or transferred under this Act, are prohibited from publicly disclosing any information concerning the relinquishment of the infant and the individuals involved,



except as otherwise provided by law.  
(Source: P.A. 95-549, eff. 6-1-08.)

(325 ILCS 2/40)

Sec. 40. Reporting requirements.

(a) Within 12 hours after accepting a newborn infant from a relinquishing person or from a police station, fire station, or emergency medical facility in accordance with this Act, a hospital must report to the Department's State Central Registry for the purpose of transferring physical custody of the infant from the hospital to either a child-placing agency or the Department.

(b) Within 24 hours after receiving a report under subsection (a), the Department must request assistance from law enforcement officials to investigate the matter using the National Crime Information Center to ensure that the relinquished newborn infant is not a missing child.

(c) Once a hospital has made a report to the Department under subsection (a), the Department must arrange for a licensed child-placing agency to accept physical custody of the relinquished newborn infant.

(d) If a relinquished child is not a newborn infant as defined in this Act, the hospital and the Department must proceed as if the child is an abused or neglected child.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01; 93-820, eff. 7-27-04.)

(325 ILCS 2/45)

Sec. 45. Medical assistance. Notwithstanding any other provision of law, a newborn infant relinquished in accordance with this Act shall be deemed eligible for medical assistance under the Illinois Public Aid Code, and a hospital providing medical services to such an infant shall be reimbursed for those services in accordance with the payment methodologies authorized under that Code. In addition, for any day that a hospital has custody of a newborn infant relinquished in accordance with this Act and the infant does not require medically necessary care, the hospital shall be reimbursed by the Department of Healthcare and Family Services at the general acute care per diem rate, in accordance with 89 Ill. Adm. Code 148.270(c).

(Source: P.A. 95-331, eff. 8-21-07.)

(325 ILCS 2/50)

Sec. 50. Child-placing agency procedures.

(a) The Department's State Central Registry must maintain a list of licensed child-placing agencies willing to take legal custody of newborn infants relinquished in accordance with this Act. The child-placing agencies on the list must be contacted by the Department on a rotating basis upon notice from a hospital that a newborn infant has been relinquished in accordance with this Act.

(b) Upon notice from the Department that a newborn infant has been relinquished in accordance with this Act, a child-placing agency must accept the newborn infant if the agency has the accommodations to do so. The child-placing agency must seek an order for legal custody of the infant upon its acceptance of the infant.

(c) Within 3 business days after assuming physical custody of the infant, the child-placing agency shall file a petition in the division of the circuit court in which petitions for adoption would normally be heard. The petition shall allege that the newborn infant has been relinquished in accordance with this Act and shall state that the child-placing agency intends to place the infant in an adoptive home.



(d) If no licensed child-placing agency is able to accept the relinquished newborn infant, then the Department must assume responsibility for the infant as soon as practicable.

(e) A custody order issued under subsection (b) shall remain in effect until a final adoption order based on the relinquished newborn infant's best interests is issued in accordance with this Act and the Adoption Act.

(f) When possible, the child-placing agency must place a relinquished newborn infant in a prospective adoptive home.

(g) The Department or child-placing agency must initiate proceedings to (i) terminate the parental rights of the relinquished newborn infant's known or unknown parents, (ii) appoint a guardian for the infant, and (iii) obtain consent to the infant's adoption in accordance with this Act no sooner than 60 days following the date of the initial relinquishment of the infant to the hospital, police station, fire station, or emergency medical facility.

(h) Before filing a petition for termination of parental rights, the Department or child-placing agency must do the following:

(1) Search its Putative Father Registry for the purpose of determining the identity and location of the putative father of the relinquished newborn infant who is, or is expected to be, the subject of an adoption proceeding, in order to provide notice of the proceeding to the putative father. At least one search of the Registry must be conducted, at least 30 days after the relinquished newborn infant's estimated date of birth; earlier searches may be conducted, however. Notice to any potential putative father discovered in a search of the Registry according to the estimated age of the relinquished newborn infant must be in accordance with Section 12a of the Adoption Act.

(2) Verify with law enforcement officials, using the National Crime Information Center, that the relinquished newborn infant is not a missing child.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01; 93-820, eff. 7-27-04.)

(325 ILCS 2/55)

Sec. 55. Petition for return of custody.

(a) A parent of a newborn infant relinquished in accordance with this Act may petition for the return of custody of the infant before the termination of parental rights with respect to the infant.

(b) A parent of a newborn infant relinquished in accordance with this Act may petition for the return of custody of the infant by contacting the Department for the purpose of obtaining the name of the child-placing agency and then filing a petition for return of custody in the circuit court in which the proceeding for the termination of parental rights is pending.

(c) If a petition for the termination of parental rights has not been filed by the Department or the child-placing agency, the parent of the relinquished newborn infant must contact the Department, which must notify the parent of the appropriate court in which the petition for return of custody must be filed.

(d) The circuit court may hold the proceeding for the termination of parental rights in abeyance for a period not to exceed 60 days from the date that the petition for return of custody was filed without a showing of good cause. During that period:

(1) The court shall order genetic testing to establish maternity or paternity, or both.

(2) The Department shall conduct a child protective investigation and home study to develop recommendations to

the court.

(3) When indicated as a result of the Department's investigation and home study, further proceedings under the Juvenile Court Act of 1987 as the court determines appropriate, may be conducted. However, relinquishment of a newborn infant in accordance with this Act does not render the infant abused, neglected, or abandoned solely because the newborn infant was relinquished to a hospital, police station, fire station, or emergency medical facility in accordance with this Act.

(e) Failure to file a petition for the return of custody of a relinquished newborn infant before the termination of parental rights bars any future action asserting legal rights with respect to the infant unless the parent's act of relinquishment that led to the termination of parental rights involved fraud perpetrated against and not stemming from or involving the parent. No action to void or revoke the termination of parental rights of a parent of a newborn infant relinquished in accordance with this Act, including an action based on fraud, may be commenced after 12 months after the date that the newborn infant was initially relinquished to a hospital, police station, fire station, or emergency medical facility.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01; 93-820, eff. 7-27-04.)

(325 ILCS 2/60)

Sec. 60. Department's duties. The Department must implement a public information program to promote safe placement alternatives for newborn infants. The public information program must inform the public of the following:

(1) The relinquishment alternative provided for in this Act, which results in the adoption of a newborn infant under 7 days of age and which provides for the parent's anonymity, if the parent so chooses.

(2) The alternative of adoption through a public or private agency, in which the parent's identity may or may not be known to the agency, but is kept anonymous from the adoptive parents, if the birth parent so desires, and which allows the parent to be actively involved in the child's adoption plan.

The public information program may include, but need not be limited to, the following elements:

(i) Educational and informational materials in print, audio, video, electronic or other media.

(ii) Establishment of a web site.

(iii) Public service announcements and advertisements.

(iv) Establishment of toll-free telephone hotlines to provide information.

(Source: P.A. 94-941, eff. 6-26-06.)

(325 ILCS 2/65)

Sec. 65. Evaluation.

(a) The Department shall collect and analyze information regarding the relinquishment of newborn infants and placement of children under this Act. Police stations, fire stations, emergency medical facilities, and medical professionals accepting and providing services to a newborn infant under this Act shall report to the Department data necessary for the Department to evaluate and determine the effect of this Act in the prevention of injury or death of newborn infants. Child-placing agencies shall report to the Department data necessary to evaluate and determine the effectiveness of these agencies in providing child protective and child welfare services to newborn infants relinquished under this Act.

(b) The information collected shall include, but need not be limited to: the number of newborn infants relinquished; the services provided to relinquished newborn infants; the outcome of care for the relinquished newborn infants; the number and disposition of cases of relinquished newborn infants subject to placement; the number of children accepted and served by child-placing agencies; and the services provided by child-placing agencies and the disposition of the cases of the children placed under this Act.

(c) The Department shall submit a report by January 1, 2002, and on January 1 of each year thereafter, to the Governor and General Assembly regarding the prevention of injury or death of newborn infants and the effect of placements of children under this Act. The report shall include, but need not be limited to, a summary of collected data, an analysis of the data and conclusions regarding the Act's effectiveness, a determination whether the purposes of the Act are being achieved, and recommendations for changes that may be considered necessary to improve the administration and enforcement of this Act.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01; 93-820, eff. 7-27-04.)

(325 ILCS 2/70)

Sec. 70. Construction of Act. Nothing in this Act shall be construed to preclude the courts of this State from exercising their discretion to protect the health and safety of children in individual cases. The best interests and welfare of a child shall be a paramount consideration in the construction and interpretation of this Act. It is in the child's best interests that this Act be construed and interpreted so as not to result in extending time limits beyond those set forth in this Act.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

(325 ILCS 2/75)

Sec. 75. (Repealed).

(Source: P.A. 92-432, eff. 8-17-01. Repealed by P.A. 94-207, eff. 1-1-06.)

(325 ILCS 2/90)

Sec. 90. (Amendatory provisions; text omitted).

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01; text omitted.)

(325 ILCS 2/92)

Sec. 92. (Amendatory provisions; text omitted).

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01; text omitted.)

(325 ILCS 2/95)

Sec. 95. (Amendatory provisions; text omitted).

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01; text omitted.)

(325 ILCS 2/96)

Sec. 96. (Amendatory provisions; text omitted).

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01; text omitted.)

(325 ILCS 2/96.5)

Sec. 96.5. (Amendatory provisions; text omitted).

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01; text omitted.)

(325 ILCS 2/97)

Sec. 97. (Amendatory provisions; text omitted).

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01; text omitted.)

(325 ILCS 2/999)

Sec. 999. Effective date. This Act takes effect upon becoming law.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

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**B**



**SUBJECT:** Juvenile Offenders, Surrendered Newborns, Mentally Ill Persons, Missing Persons and Vulnerable Adults

**TO:** Department Members

This Order establishes department policy and member responsibilities for the following:

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## 31.1 JUVENILE OFFENDER PROCEDURE

### 31.1.1. WORKSITE COMMANDER'S RESPONSIBILITIES

- A. The worksite commander shall ensure compliance with this Order.
- B. The worksite commander shall ensure that semi-annual checks are made of the Juvenile Apprehension Report, UD-023. See Section 31.1.2.H.(5).

### 31.1.2. INVESTIGATING INCIDENTS INVOLVING JUVENILES

Enforcement members shall properly investigate incidents involving juveniles when there have been violations of criminal laws, civil offenses in which the state is a party, or the probate code, and are also responsible for the juvenile areas outlined below.

- A. Taking Custody of a Juvenile Offender
  - (1) [MCL 712A.14](#) provides police officers with the authority to take a juvenile into custody who is found violating the law. The word "found" is an all-inclusive word that may lead to misinterpretation. In the interest of conformity, when taking a juvenile into custody without a court order, enforcement members shall use the same standards they would use for arresting an adult without a warrant, as listed in [MCL 764.15](#).



- (2) Enforcement members shall take all necessary precautions when taking a juvenile offender into custody. Enforcement members shall abide by the requirements for securing arrested subjects listed in Official Order No.14 and shall not subject themselves to possible bodily harm, regardless of the age of the offender.
- (3) Status offenders (e.g., runaways) and non-offenders (e.g., victims of child abuse/neglect) taken into custody shall not be held in a locked room or handcuffed to any fixed or stationary object. They may be held in a lobby or an unlocked office and shall be kept under constant supervision or in visual contact at all times.
- (4) In the case of a status offender (e.g., runaway), the juvenile may be placed in a local runaway shelter or facility. Such placement, however, does not relieve enforcement members of their responsibility to notify a parent, guardian, or custodian.

B. Removal of a Juvenile Offender from School

- (1) The law authorizes the arrest of a juvenile offender with or without a warrant while he or she is attending school. However, enforcement members shall exercise extreme care in determining whether removing the juvenile offender from the school is the best course of action.

C. Interviewing/Interrogating the Juvenile Offender

- (1) Enforcement members shall make all reasonable attempts to contact a parent or guardian before interrogating a juvenile offender or suspect.
- (2) A juvenile shall be accorded the same procedural rights as an adult during an interview and investigation.
- (3) Enforcement members shall attempt to be friendly and constructive during the interrogation of a juvenile offender.
- (4) Enforcement members shall not mention or make promises of diversion during the questioning of a juvenile offender.
- (5) If the juvenile is a suspect in a crime, and the voluntariness of their statement, admission, or confession comes into question, the courts will look to the "totality of the circumstances" surrounding the information obtained. Enforcement members shall consider the "totality of the circumstances" when considering the most appropriate approach to interrogating a juvenile suspect. The "totality of the circumstances" may include, but are not limited to:
  - a. Whether the requirements of *Miranda v. Arizona* have been met and it is believed that the defendant clearly understands and waives those rights.
  - b. The degree of police compliance with juvenile arrest procedures as provided in [MCL 764.27](#) and the juvenile court rules.
  - c. The presence of an adult, parent, custodian, or guardian during the interview/interrogation.
  - d. The juvenile defendant's personal background.
  - e. The age, education, and intelligence level of the defendant.
  - f. The extent of the defendant's prior experience with the police.

- g. The length of detention before the statement was made.
  - h. The repeated and prolonged nature of the questioning.
  - i. Whether the accused was injured, intoxicated, in ill health, physically abused or threatened with abuse, or deprived of food, sleep, or medical attention.
  - j. Any other factors the court might consider relevant.
- (6) The school is ordinarily an unsatisfactory place in which to interview a juvenile and shall be used only in extreme cases. A policy of mutual understanding between school authorities and police officers is of great importance, and enforcement members shall try to obtain such an understanding whenever possible.
- (7) The interview of a juvenile offender of the opposite sex shall conform to the following policy:
- a. When the juvenile offender is not in the company of a parent, guardian, custodian, or attorney, an enforcement member should be accompanied by another police officer, preferably of the same sex as the offender, during an interview.
  - b. In criminal sexual conduct cases involving adult persons, the enforcement member shall use language that is appropriate and understandable to the particular child involved, given their age and level of understanding.

In such an interview, it is preferable that a parent, guardian, custodian, or person of the same sex as the juvenile be present (e.g., a police officer, a Michigan Department of Health and Human Services (MDHHS) worker, a court worker).

D. Notification of a Parent, Guardian, or Custodian

- (1) The arresting enforcement member is required by law to immediately notify a parent, guardian, or custodian of any child taken into custody, including a fugitive apprehension.
- (2) Under no circumstances shall a juvenile offender be apprehended and released by an enforcement member without notification of a parent, guardian, or custodian. This does not include civil infraction traffic offenses.
- (3) The parent, guardian, or custodian shall be called to the post to pick up the child whenever it is practical to do so.

If there is no other means of travel available, the enforcement member shall provide transportation.

E. Release to the Custody of a Parent, Guardian, or Custodian

- (1) A juvenile offender shall be released to a parent, guardian, or custodian unless immediate detention is required.
  - a. Unless the child requires immediate detention, the arresting enforcement member shall acquire the written release and promise of that parent, guardian, or custodian to bring the child to the court.

b. Completing and submitting the Juvenile Apprehension Report, UD-023, satisfies the legal requirements of [MCL 712A.14](#).

(2) If the enforcement member is unable to immediately contact a parent, guardian, or custodian, the efforts to make contact shall be documented in the incident report, and the parent, guardian, or custodian shall be notified at the earliest possible time.

F. Detention of the Juvenile Offender

(1) The juvenile offender may be placed in detention pending a hearing before a probate court judge. Detention pending a hearing is limited to certain types of offenders and situations which could potentially cause further harm to the juvenile, harm to society at large, or when the juvenile has committed a violent crime and is not likely to appear for court.

The below listed juvenile offenders may also be placed in detention pending a hearing:

a. Those whose home conditions make immediate removal necessary.

b. Those who have a record of non-adjudicated failure to appear at juvenile court or family division of circuit court proceedings.

c. Those who have run away from home and are currently under the jurisdiction of a court for a criminal offense.

d. Those who have failed to remain in a detention facility or placement, in violation of a court order.

e. Those whose offenses are so serious that release would endanger public safety.

(2) Although the law stipulates that certain conditions must exist before a juvenile offender may be placed in detention, the means for detaining the subject may not be available, or the probate court judge may differ with the enforcement member's opinion. Therefore, enforcement members shall obtain authorization from the judge or the judge's representative for detention of the juvenile.

(3) The juvenile offender who is a fugitive may be turned over to the agency having jurisdiction. This normally would only involve turning the juvenile offender over to another police agency.

Enforcement members shall complete a Juvenile Apprehension Report, UD-023, and have the form signed by the receiving officer. The UD-023 shall be filed in the post's juvenile apprehension file as instructed in this Order.

G. Secured Detention at the Post

(1) Juveniles held for committing a criminal offense may be held for up to six hours for processing purposes only. Handcuffs or soft restraints (e.g., leather cuffs) may be used to secure the juvenile to a fixed object. However, the juvenile shall be kept under constant supervision or visual contact at all times. If a juvenile is held for more than six hours at the post, the reasons for the extended holding shall be documented in the incident report.

- (2) Juveniles held in secured detention shall be kept out of sight, sound, and physical contact of adult prisoners, including trustees at all times. This includes when transporting the juvenile, whenever possible.
- (3) Juveniles held in secured detention at the post shall be reported monthly to the U.S. Justice Department, Office of Juvenile Delinquency Prevention (OJJDP) on a Monthly Summary/Locked Juvenile Facility form.

NOTE: A juvenile is considered secured if they are placed in a cell or locked room or handcuffed to a stationary object.

#### H. Processing Juvenile Apprehension and Incident Reports

- (1) Generally, a Juvenile Apprehension Report, UD-023, shall be submitted only on young persons who have reached their tenth birthday and have not reached their 18th birthday, who have been involved in criminal, non-traffic civil violations in which the state is a party, or Juvenile Code violations, and who have actually been taken into custody.

Occasionally, a young person under the age of ten years may be taken into custody for commission of a very serious offense. In such cases, a Juvenile Apprehension Report shall only be submitted if the probate court accepts the petition.

- (2) The investigating enforcement member shall complete the UD-023.
- (3) The post copy of the UD-023 shall be filed separately in the post juvenile apprehension file or in the diversion files as soon as the decision is made to petition or divert the juvenile offender.
- (4) When the local family division of circuit court directs the post to cite juveniles apprehended for non-traffic civil violations to the district court, an Arrest Report, UD-008, may be completed in addition to the required UD-023.
- (5) The post commander shall make semi-annual checks of the UD-023 file to ensure that all juvenile records are purged in a timely manner on the 21st birthday of the offender.

The expired reports shall be shredded or similarly destroyed in order to protect the reports' sensitive information.

- (6) The incident report shall remain open until disposition information is determined, (e.g., referred to probate court or turned over to another police agency). The disposition information shall be incorporated in the body of the incident report and the proper disposition code entered in the department's incident reporting system.
- (7) Traffic Offenses
  - a. Enforcement members shall record juvenile civil infraction traffic arrests on a Uniform Law Citation, UD-008.
  - b. Enforcement members shall submit a Juvenile Apprehension Report, UD-023, on misdemeanor traffic offenses.

#### I. Fingerprinting and Photographing

- (1) Fingerprinting in accordance with [MCL 28.241, et seq.](#)

- a. All juveniles apprehended for a misdemeanor punishable by 93 days or more in jail, or for a felony, shall be fingerprinted using a live scan device.
  - i. The arrest information, including the Transaction Control Number (TCN), shall be forwarded with the petition to the prosecutor/court.
- b. If the petition is not authorized and the fingerprints have already been submitted, the investigating enforcement member shall immediately notify the CJIC, via LEIN, to delete the fingerprints related to the juvenile.

The notification for modification of arrest prints is completed by using the forms tab in LEIN. Select "Criminal History", then "Modify Arrest to REL" (Release). When the form appears, enter the Transaction Control Number (TCN), Agency Case Number (OCA), Arresting Agency ORI, and confirm the Arrest Disposition Code is REL, then transmit. The transaction and the incident are closed and retained as a non-public record until such time that the CJIC deletes the arrest incident.

- c. If a fugitive arrest is made of a juvenile who is charged with a printable offense, the juvenile does not need to be fingerprinted by the enforcement member making the fugitive arrest since it is presumed that the originating agency will fingerprint and process the juvenile.

(2) Court ordered fingerprinting in accordance with [MCL 712A.11](#).

At the time a petition is authorized, the court shall order that the juvenile offender be fingerprinted if examination of the court file shows that fingerprints were not taken at the time of apprehension.

- a. The order will require the juvenile to submit themselves to be fingerprinted at the worksite that apprehended or obtained the petition for the apprehension.
- b. The worksite shall verify that the arrest has not already been created on the criminal history by running a query via LEIN utilizing the criminal tracking number or the subject's name from the order.
  - i. If it is determined that fingerprints have already been submitted for the incident, a copy of the documentation shall be attached to the order and returned to the court of jurisdiction
  - ii. If there is no evidence the subject has been fingerprinted for the incident, the subject's fingerprints shall be collected and submitted via Live Scan.
- c. Confirmation that the print has been submitted and retained by CJIC shall be provided to the family division of circuit court.

(3) Photographs

Mug photos shall be taken of all juveniles who are fingerprinted, as outlined in Official Order No. 56.

J. Compliance with Polygraph Procedures

- (1) The investigating enforcement member shall contact the examiner prior to scheduling a juvenile for an examination and inform them of the circumstances of the case.

- (2) Official Order No. 11 states that no polygraph examination shall be given to any person under the age of 18 years without written permission on the Authorization for Juvenile Polygraph Examination, BID-022, from at least one parent, a guardian, an attorney, or a family division of circuit court judge having jurisdiction.
    - a. The investigating enforcement member is required to submit an Authorization for Juvenile Polygraph Examination, BID-022.
    - b. Additional information relating to the use of the polygraph is covered in Official Order No. 11.
- K. Investigating Child Abuse/Neglect
- (1) In all matters brought to the attention of the department concerning abuse, abandonment, or neglect of minor children, the enforcement member shall conduct a complete investigation.
  - (2) Enforcement members shall take appropriate measures to ensure the safety of the child, MDHHS worker, or any person involved in the investigation of child abuse/neglect incidents.
  - (3) Removal of Children from the Home
    - a. There are some instances when it will be necessary to remove children from the home; it shall be done only by order of the family division of circuit court, except when the life or health of a child is in danger.
    - b. Regardless of whether a child is removed from their home, enforcement members shall also ensure that an abused child receives necessary medical attention whenever the health or welfare of the child is endangered.
  - (4) In child abuse and neglect investigations, enforcement members shall satisfy the legal obligations to conduct a criminal investigation and, as such, the findings of the investigation shall be submitted to the prosecutor.
  - (5) Child Protection Law, [MCL 722.621-722.636](#)
    - a. Investigating enforcement members shall cooperate with the MDHHS when conducting investigations under authority of the Child Protection Law.
      - i. Whenever possible, the investigating enforcement member shall respond to the initial report of suspected child abuse or neglect situation accompanied by a protective service worker from the local Michigan Department of Health and Human Services.
    - b. The Child Protection Law specifies reporting procedures for suspected abuse or neglect cases. The following procedures shall be used to report this type of incident.
      - i. The investigating enforcement member shall immediately report the incident by telephone or other means to MDHHS Centralized Intake for Abuse and Neglect, 855-444-XXXX.
      - ii. Within a 72-hour period following receipt of a child abuse or neglect incident, a completed Report of Actual or Suspected Child Abuse or Neglect form, DHS-3200, shall be submitted to Centralized Intake by fax at

616-977-XXXX or email at MDHHS-CPS-CIGroup@michigan.gov.

- iii. If the investigating enforcement member is not the reporting officer, they are not required to submit the Report of Actual or Suspected Child Abuse or Neglect form, DHS-3200. However, when someone other than the investigating enforcement member submits the form, it shall be noted in the incident report.
- iv. When the enforcement member submits the required form, a copy shall be attached to the work and master file copies of the incident report.
- v. [MCL 722.628](#) requires the prosecuting attorney of each county to adopt and implement a standard child abuse and neglect investigation and interview protocol, using the protocol developed by the Governor's Task Force on Child Abuse and Neglect as a model.
  - 1) The statute also requires the prosecuting attorney to establish procedures for involving law enforcement officials in the investigation.
  - 2) Law enforcement officers investigating suspected child abuse or neglect cases are mandated by the Child Protection Law to follow the established protocol.
  - 3) If no protocol has been established, enforcement members must review and have knowledge of the model policy developed by the Governor's Task Force on Child Abuse and Neglect.
  - 4) Except in extreme cases, juvenile victims are to be interviewed only by enforcement members who have received the appropriate training in Michigan's Juvenile Forensic Interviewing Protocol.

L. Investigating Incidents of Missing Children

- (1) Reports of missing children shall be treated as serious incidents and complete investigations shall be conducted.
- (2) When conducting a missing child investigation, enforcement members shall:
  - a. Immediately enter the information into LEIN/NCIC (National Crime Information Center) and relay a detailed description of the missing child to their dispatcher for immediate broadcast. The Adam Walsh Child Protection and Safety Act of 2006 requires law enforcement agencies to enter missing individuals under the age of 21 into the LEIN/ NCIC missing person files within two hours of receipt of the minimum mandatory fields required for entry.
  - b. Submit an incident report.
  - c. Complete and submit an Official Missing Person Report, UD-003E.
  - d. Complete and submit a Missing/Unidentified Person Dental Report according to the requirements in Section 31.4.2.B.(2).
  - e. Notify their shift commander, who in turn shall notify the post commander and post detective.



- (3) It is recommended that enforcement members conducting a missing child investigation refer to the "Investigative Checklist for First Responders" as a guide.
  - a. Based on the available information, the investigating enforcement member shall determine the type of missing child incident being investigated (e.g., an abduction, a parental kidnapping, a runaway, or a false report intended to conceal some other type of incident, such as a homicide or accidental death).
    - i. If there is not yet enough information to make an initial determination on the type of incident being investigated, enforcement members should treat the disappearance as an abduction until later information suggests otherwise.
  - b. Enforcement members should also request investigative assistance or additional personnel at this time, if necessary.
  - c. Enforcement members should interview the person who made the initial report, as well as the missing child's family members, friends, associates, neighbors, school officials, teachers, and others known to them in order to gather additional information regarding the possible whereabouts of the missing child.
  - d. Enforcement members should also gather information on what has already been done to locate the missing child and document these efforts in the incident report.
  - e. Custody status of the missing child shall be verified through court documents issued from the court of jurisdiction in cases where parental abduction is alleged.
  - f. If the juvenile is not found within 30 days, the investigating enforcement member shall obtain the missing child's latest medical and dental records, in accordance with [MCL 28.258](#) and NCIC policy, and shall enter the information into the NCIC missing person record via LEIN.
  - g. Reports involving missing persons shall be completed prior to the end of the responding enforcement member's tour of duty.
- (4) The complainant shall be re-contacted within 24 hours of the original report concerning new information that they received regarding the whereabouts of the missing child.
  - a. This shall be followed by periodic follow-up contacts throughout the course of the investigation.
- (5) Incident reports involving missing children who have returned home shall not be closed until the subject has been personally interviewed by an enforcement member.
  - a. The enforcement member shall document in the incident report the reasons why the child went missing. If further investigation is required because of allegations of abuse or neglect, the enforcement member shall comply with departmental policy regarding investigations of this nature.
  - b. The enforcement member shall also question the child to determine if the child was a victim of a crime while missing. If the child was victimized, the enforcement member shall conduct an additional investigation into these allegations.

## (6) AMBER Alert

Section 31.4.6.B covers department policy and procedure regarding the Michigan AMBER Alert Plan.

## (7) Endangered Missing Advisory (EMA)

Section 31.4.5.C covers department policy and procedure regarding the Endangered Missing Advisory.

(8) Parental Abduction, [MCL 750.350a](#)

- a. According to MCL 750.350a, the adoptive or natural parents of a child are prohibited from taking or retaining the child for more than 24 hours, with the intent to detain or conceal the child from another parent or legal guardian who has custody or parenting time rights pursuant to a lawful court order.
- b. Youths reported as victims of parental abductions shall be immediately entered in LEIN as soon as the custodial parent produces court papers showing legal custody.
- c. The Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA), [MCL 722.1101 to 722.1406](#):
  - i. The UCCJEA entitles state courts to enforce valid custody and visitation orders from other states.
  - ii. The UCCJEA allows for a custody order from another state to be registered with a local court. If the court finds that a child is likely to suffer serious imminent physical harm or be imminently removed from this state, the court may issue an order directing law enforcement to take immediate physical custody of the child ([MCL 722.1310](#)).
    - 1) The order may authorize law enforcement officers to forcibly enter private property at any hour to take physical custody of a child if doing so is required by exigent circumstances.
    - 2) Failure to comply with a valid court order requiring law enforcement officers to take physical custody of a child issued from a local jurisdiction in Michigan can place the officer and the department at risk of civil action. If failure results in serious harm to the child, the officer is at risk of being charged criminally for their inaction.
  - iii. The UCCJEA allows the court the option to impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

## (9) Additional information relating to missing persons and Michigan's Missing Child Information Clearinghouse may be found in Section 31.4.6C.

## (10) When a missing juvenile (entered or not entered in LEIN) has been recovered, enforcement members shall complete and submit a Missing Child Debrief, UD-196.

### 31.1.3. JUVENILE DIVERSION

- A. Diversion programs are developed by local prosecutors' offices, in cooperation with law enforcement and community leaders, to divert low-risk offenders away from the formal juvenile justice system.
- (1) Diversion can take place at any point between a recorded apprehension and the formal acceptance of a petition by the juvenile court.
  - (2) Juvenile diversion programs are typically intended for first-time offenders, but they can be offered to any juvenile offender at the discretion of the prosecutor.
    - a. Enforcement members shall not offer juvenile offenders the opportunity to participate in a juvenile diversion program. If asked about the availability of diversion by the juvenile offender or their parent or guardian, enforcement members shall inform the offender that such decisions can only be made by the prosecuting attorney, or that no such programs currently exist in their area, whichever is the case.
- B. Because diversion involves a formal decision on whether or not to charge a juvenile offender, a decision that can only be made by the prosecutor, enforcement members shall not establish informal diversion programs at their worksites.
- C. Post Commander's Responsibilities
- (1) Post commanders shall contact their local prosecutor's office to inquire about the availability of juvenile diversion programs in their post area.
  - (2) If no juvenile diversion program exists in their post area, the post commander shall attempt to work with the prosecutor's office to develop such a program.
  - (3) The post commander may delegate the responsibility for the post's participation in a juvenile diversion program to their court officer or other designee.
- D. Court Officer's or other Designee's Responsibilities
- (1) Act as a liaison between investigating enforcement members and the court's juvenile diversion administrators.
  - (2) Assist in identifying possible candidates for the diversion program.
  - (3) Identify local opportunities for community service work (e.g., public buildings, non-profit organizations, schools, churches). This information may be obtained from the post's community service trooper.
  - (4) Keep the post commander informed on the operation of the diversion program.

### 31.2 PROTECTIVE CUSTODY OF SURRENDERED NEWBORNS

This section coordinates and formulates uniform procedures for protective custody of surrendered newborns in compliance with the "Safe Delivery Act."

31.2.1. THE SAFE DELIVERY ACT ([MCL 712.1, et. seq.](#))

- A. The Safe Delivery Act mandates that emergency service providers take temporary protective custody of any newborn under the age of 72 hours that is surrendered to them by the parent.
- B. MCL 712.1 (e) defines "Emergency Service Provider" as a uniformed employee or otherwise identified employee or contractor of a fire department, hospital, or police station when that individual is inside the premise and on duty.
  - (1) "Police station" is defined according to [MCL 257.43](#) as every county jail, every police station in any city, village, or township; and the headquarters and every regular sub-post of the Michigan State Police.
- C. MCL 712.1 (j) defines a "newborn" as a child who a physician reasonably believes to be under the age of 72 hours.
- D. MCL 712.1 (m) defines "surrender" as leaving a newborn with an emergency service provider without expressing intent to return for the newborn.

31.2.2. REQUIRED REPORTS

- A. In all cases, the proper incident report and other required reports shall be submitted.
- B. An official MDHHS "Voluntary Medical Background Form for a Surrendered Newborn" (DHS 4819, 2-19) shall be completed and submitted with the original incident report.
- C. The member accepting the newborn shall supply the surrendering parent with the following required MDHHS publications:
  - (1) [DHS Publication 864](#) (11-15) "Surrendering Parents Rights."
  - (2) [DHS Publication 4820](#) (2-19) "Voluntary Release for Adoption of a Surrendered Newborn by Parent."
  - (3) [DHS Publication 867](#) (1-12) "Safe Delivery Program Fact Sheet."
- D. The original copy of the DHS Publication 4819 (2-19) "Medical Background Form for a Surrendered Newborn," and the original copy of DHS Publication 4820 (2-19) "Voluntary Release for Adoption of a Surrendered Newborn by Parent" when completed, shall be forwarded to the emergency medical facility that has temporary custody of the child. Additional copies of both forms shall be attached to the original incident report.

31.2.3. LEIN BROADCAST

The enlisted member investigating a surrendered newborn incident shall submit a regional LEIN broadcast to area law enforcement agencies. Area law enforcement agencies shall be asked for investigative leads to determine if the surrendered newborn matches the description of a missing child reported within their jurisdiction. The LEIN broadcast shall include a complete description of the surrendered newborn, including age, weight, height, sex, hair color and eye color, distinguishing marks, and a clothing description. The member shall document the dissemination of the LEIN broadcast in the incident report.

#### 31.2.4. INVESTIGATIONS

- A. When a member accepts a child in compliance with the Safe Delivery Act, they shall assume the child is a newborn and take temporary protective custody of the newborn. Members shall take immediate action to protect the health and safety of the newborn ([MCL 712.3](#)). In every incident where a member takes protective custody of a surrendered newborn, emergency medical personnel will transport the surrendered newborn to the nearest medical facility. In each case of a surrendered newborn, the emergency medical personnel transporting the infant shall be given a copy of the completed DHS Publication 4819 (2-19) "Medical Background Form for a Surrendered Newborn." The medical facility will take custody of the surrendered newborn.
- (1) If the member that accepts the surrendered newborn is not enlisted, they shall immediately relinquish the surrendered newborn incident to the proper departmental authority empowered to conduct criminal investigations of this nature.
- B. If the member accepting the newborn believes the surrendering parent is a minor in need of immediate medical assistance, they shall render first aid to the surrendering parent and contact emergency medical personnel to transport the minor to the nearest medical facility.
- C. If the member believes the surrendering parent is not a minor but is still in need of medical attention, the member shall offer first aid and medical assistance. If medical assistance is declined, the member investigating the incident shall document in the incident report that the surrendering parent did not want medical assistance.
- D. The member accepting the newborn shall inform the surrendering parent that:
- (1) By surrendering the newborn, the parent is releasing the child to a child-placing agency to be placed for adoption.
- (2) The parent has 28 days after surrendering the newborn to petition the court to regain custody of the newborn.
- (3) After the 28-day period to petition for custody has lapsed, there will be a hearing to terminate parental rights.
- (4) There will be a public notice of this hearing; the notice will not contain the parent's name.
- (5) The parent will not receive personal notice of this hearing.
- (6) The information the parent provides to the emergency service provider will not be made public.
- (7) A parent can contact the toll-free safe delivery telephone number 1-866-733-7733 for more information.
- E. The member accepting the newborn will make a reasonable effort to obtain from the surrendering parent relevant family or medical information, utilizing the Family Independence Agency Medical Background Form for a Surrendered Newborn (FIA Publication 4819, 2-19).
- F. Once the newborn is examined by a physician at a hospital ([MCL 712.5](#)) and it is determined that the newborn is not a victim of abuse or neglect, the member investigating the incident shall document the physician's findings in the incident report before closing the incident.

- (1) If the physician who examines the newborn determines there is a reason to suspect abuse or neglect, or has reason to believe that the child is not a newborn under this section, then the physician must report the incident according to Michigan's Child Protection Law ([MCL 722.621-722.638](#)). A member who accepts a newborn and has reasonable cause to suspect that the newborn may be the victim of abuse or neglect, or is not a newborn according to the Safe Delivery Act by the examining physician, shall notify the proper departmental authority.
- G. The member who accepts a newborn and has reasonable cause to suspect the surrendering parent is a minor child that is a victim of child abuse or neglect shall immediately notify the proper departmental authority.
- H. If the surrendering parent wants to be anonymous, and does not want to answer any questions, and the member does not suspect the newborn or the surrendering parent are victims of child abuse or neglect, the member shall take the newborn into temporary protective custody and not detain the surrendering parent, nor compel the surrendering parent to answer any questions.
- I. The member investigating the incident of a surrendered newborn shall take photographs of the newborn (depicting the face and shoulders of the infant) and forward a copy of the incident report and the photograph to Michigan's Missing Children Information Clearinghouse located within the Michigan Intelligence Operations Center.

Michigan State Police  
Michigan Intelligence Operations Center  
7150 Harris Drive  
Dimondale, MI 48821  
Telephone number 517-284-XXXX

- (1) Michigan's Missing Children Information Clearinghouse shall conduct an investigation to determine if a surrendered newborn is a missing child. If a surrendered newborn is a missing child, Michigan's Missing Children Information Clearinghouse shall immediately notify the emergency service provider that accepted the newborn and the child-placing agency that has temporary custody of the surrendered newborn.
- (2) The member investigating the incident of a surrendered newborn shall not close the incident report until they have been notified by Michigan's Missing Children Information Clearinghouse that the surrendered newborn is not a missing child.
- (3) Michigan's Missing Children Information Clearinghouse shall keep a record of all newborns surrendered in Michigan in compliance with Michigan's Safe Delivery Act.
- J. If the surrendered newborn is a missing child, the department shall conduct a criminal investigation and immediately notify the MDHHS that has temporary custody of the newborn.

### 31.3 MENTALLY ILL PERSONS – APPREHENSION, ADMISSION, AND ESCAPES

The Mental Health Code ([MCL 330.1001-330.2001](#)) prescribes actions for peace officers in connection with mentally ill citizens. This section covers apprehension, transportation, and application for commitment of persons with a mental illness; the notification and return of persons with a mental illness or developmentally disabled persons in unauthorized leave status from a state facility for the treatment of a mental illness or developmentally disabled persons from a Federal Veterans Administration Hospital; and investigations of incidents at MDHHS facilities.

31.3.1. COUNTY COMMUNITY MENTAL HEALTH OFFICIALS TO BE CONTACTED

- A. Post commanders shall contact officials of the County Community Mental Health program in their post area to establish procedures for handling persons requiring treatment. Policy shall be developed for handling those persons requiring treatment in each of the counties covered by each post.
- B. Pre-admission screening units are a service component of a Community Mental Health services program. Post commanders shall maintain a list of pre-admission screening units and hospitals designated by the Community Mental Health Department in their county of service.

31.3.2. PROTECTIVE CUSTODY (MCL [330.1426](#), [330.1427](#), [330.1427a](#))

- A. When presented with a court order, an enlisted member shall take the named individual into protective custody and transport them immediately to a pre-admission screening unit or hospital for examination.
- B. When presented with a clinical certificate and an application for admission completed by a physician, licensed psychologist, or private citizen, an enlisted member shall take the named individual into protective custody and transport them immediately to the pre-admission screening unit or hospital designated by the community mental health services program for examination. The enlisted member shall verify the clinical certificate with the issuing doctor before taking the named individual into custody.
- C. If an enlisted member observes an individual conducting themselves in a manner that causes the enlisted member to reasonably believe that the individual is a person requiring treatment as defined below, the enlisted member may take the individual into protective custody and transport them to a pre-admission screening unit designated by a community mental health services program for examination or notify the Community Mental Health Emergency Service Unit to request mental health intervention services. If notified, the Community Mental Health Emergency Services Unit shall provide mental health intervention services that it considers appropriate, unless the individual declines the services.
- D. If the individual declines the services, the enlisted member shall immediately transport the individual to a hospital. These services may be provided at a site mutually agreed to by the enlisted member and the Community Mental Health Emergency Service Unit. In the course of providing services, the Community Mental Health Emergency Service Unit may provide advice and consultation to the enlisted member which may include recommendation to transport the individual to a hospital for examination. However, the enlisted member is not constrained from exercising their reasonable judgment. On arrival at the pre-admission screening unit or hospital, the enlisted member shall execute a Petition/Application for Hospitalization of the individual.

(1) A person requiring treatment is defined as any of the following:

- a. A person who, as a result of a mental illness, can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure themselves or another person, and who has engaged in an act or acts or made significant threats that are substantially supportive of the expectation.
- b. A person who, as a result of a mental illness, is unable to attend to their basic physical needs, such as food, clothing, or shelter, that must be attended to in order to avoid serious harm in the near future, and who has demonstrated that



inability by failing to attend to those basic physical needs.

- c. A person who, as the result of a mental illness, has judgment that is so impaired they are unable to understand the need for treatment and whose continued behavior as the result of this mental illness can reasonably be expected, on the basis of competent medical opinion, to result in significant physical harm to themselves or others.
- E. Enlisted members taking an individual into protective custody may use that kind and degree of force that would be lawful were the enlisted member making an arrest for a misdemeanor.
- F. Enlisted members shall inform the individual that they are being held in protective custody and is not under arrest.
- G. An entry shall be made in the incident report indicating the date, time, and place of taking, but the entry shall not be treated for any purpose as an arrest or criminal record.
- H. Arrest records, mug shots, or fingerprint cards shall not be prepared unless an individual has been charged with a criminal offense.
- I. A person requiring treatment who commits a criminal offense shall be taken into protective custody and transported to a hospital or Community Mental Health Emergency Service Unit. The amount of force which an enlisted member may use depends on the criminal offense committed and the particular circumstances of the case. The prosecutor may be contacted later to request a warrant for the criminal offense committed. Enlisted members are, however, not restricted from using personal judgment to determine the proper course of action.

#### 31.3.3. NOTIFICATION

- A. The post commander or designee shall be notified and shall give authorization before an individual is transported or an application for commitment is prepared.
- B. During regular working hours, members shall contact the superintendent of the nearest designated pre-admission screening unit or hospital by telephone before transporting an individual for whom an application for commitment has been prepared by an enlisted member. On weekends and after 5:00 p.m., the admitting office shall be contacted. This call is to advise staff members that our enlisted members are in route, not to obtain authorization to transport.

#### 31.3.4. TRANSPORTATION

- A. Potential patients shall be transported to the nearest pre-admission screening unit willing to accept involuntary admissions. A designated pre-admission screening unit or hospital must accept for examination, but not necessarily for detention, any individual, regardless of their residence when presented by an enlisted member.
- B. The department shall not transport patients from one hospital to another unless the pre-admission screening unit authorizes hospitalization. The department shall transport the individual to a hospital designated by the community mental health services program, unless other arrangements are provided by the pre-admission screening unit.
- C. All individuals shall be thoroughly searched and transported to the hospital following the guidelines in Official Order No. 14. A minimum of two enlisted members shall take part in transporting mental patients.

- D. Violent patients or physically incapacitated persons shall be transported to hospitals by ambulance. Enlisted members shall go to the hospital and complete an application for commitment, since ambulance attendants have no authority to complete the application for commitment.
- E. Enlisted members shall not relay patients for other police departments.
- F. Enlisted members shall not transport patients between hospitals and courtrooms for preliminary exams and court hearings unless served with a court order to do so.

#### 31.3.5. APPLICATION FOR ADMISSION

- A. Enlisted members shall remain with a subject at the pre-admission screening unit or hospital for a period of not more than two hours, following their arrival and completion of an application, to wait for medical certification. If a medical diagnosis is not made during this two-hour period, enlisted members shall leave the subject to the care of the hospital. The department's responsibility, other than testifying at the preliminary and court hearings, shall end when a hospital approves an application and receives a patient from the enlisted member.
- B. Once enlisted members have left the hospital, they shall not return to transport the subject home or elsewhere, even if it is determined later that the subject is not an acceptable applicant. This includes a reversing of the medical certification by the hospital psychiatrist. If an individual is deemed not acceptable during the two-hour period, enlisted members shall return the individual to the location from which they were originally transported, unless the subject has committed a lodgeable criminal offense.

#### 31.3.6. REPORTS

Whenever an individual is transported to a pre-admission screening unit or hospital and an application for admission is completed by an enlisted member, a copy of the complaint shall be forwarded to the prosecutor of the county in which the committed individual permanently resides.

#### 31.3.7. ESCAPES

- A. The term "escape" refers to any unauthorized leave from an institution, community living facility, or family care home operated by the MDHHS or operated by or under contract with a community mental health program, as well as from a Veterans Administration Hospital.
  - (1) Failure to return on termination of convalescent leave, failure to report as required by convalescent status conditions, failure to return from an authorized leave, breakout, or walkaway of an involuntarily committed patient are considered escapes.
- B. Notification of escapes shall be made by the hospital director or designee.
  - (1) Within 12 hours of such verbal notification, a written notification shall be sent by the hospital to the post involved. The written notification shall include the individual's full name, address, date of birth, physical description, date of original admission, leave date from hospital, and the date the subject was to have returned to the hospital.
  - (2) Within 72 hours a follow-up letter from the hospital director shall be submitted to the post. The MDHHS shall send Form 1660, Unauthorized Leave of Absence Patient Report, with the follow-up letter. A Veterans Administration Hospital shall use Form 10-2331, Report of Unauthorized Absence, in addition to the follow-up letter.

- C. An enforcement member receiving notification of an escape from an institution shall complete the following steps:
- (1) Enter the information about the subject into the LEIN/NCIC system as a Missing Person Disabled, with the hospital as the requesting agency. See the LEIN Operations Manual under the Missing Persons Section for entry procedure.
    - a. Entry into LEIN will automatically generate an NCIC entry. This is a notification to out-of-state agencies that the person is a missing person with a proven disability who may be dangerous to themselves or others. It is not an extradition notice. The MDHHS will not pick-up patients found out of state.
  - (2) Make a local radio broadcast.
  - (3) Notify local police and sheriffs in the area of the individual's home or former place of residence.
  - (4) Immediately begin an investigation of the individual's whereabouts if they are considered dangerous.
- D. Criminal Offenders
- (1) Prisoner
    - a. A prisoner is a person who is serving a criminal sentence in a penal institution and has been confined to a mental health facility for treatment. That person continues to serve the criminal sentence while being treated.
    - b. If a prisoner escapes from the custody of a treatment facility, the escape shall be treated in the same fashion as if the prisoner had escaped from the corrections facility where they were serving a criminal sentence. The person could be charged with criminal escape and shall be entered into LEIN/NCIC accordingly.
  - (2) Incompetent to Stand Trial
    - a. The court may rule that a person is incompetent to stand trial for criminal charges by reason of insanity. That person may be ordered by the court to be held in a mental health treatment facility for treatment until they are ruled competent to stand trial, or until the prosecutor dismisses the charges, or for not more than 15 months.
    - b. A person in this status, who escapes from a treatment center, shall be immediately entered into LEIN/NCIC as a criminal escapee. A check shall be made with the prosecutor of the jurisdiction as soon as possible to determine if extradition will be made. If the prosecutor will not extradite, the entry shall be modified to reflect an extradition limitation of "NOEX" in NCIC.
- E. When an escapee is apprehended, enlisted members shall proceed as follows:
- (1) An arrest form, mug shots, or fingerprint card shall not be prepared unless the individual has been charged with a criminal offense. The appropriate incident forms shall be completed and closed. If during or after the escape the individual has committed a criminal offense, a secondary file class number shall be used to reflect the nature of the offense committed.

- (2) The institution from which the patient escaped shall be notified, advising them where the patient will be taken. A record of the notification shall be made.
- (3) The record shall be removed from the LEIN/NCIC system.
- (4) The patient of a state mental health institution, if in State Police custody, shall be transported to the nearest state mental health institution, unless the director of the institution from which the patient is absent makes other arrangements. An escapee from a Veterans Administration Hospital shall be returned to the nearest Veterans Administration Hospital or state mental health institution, if nearer.

Escapees from a community health facility apprehended within the Second District shall be transported to the same type of facility from which the person left without authorization.

- (5) The MDHHS will not extradite patients (escapees) who are on unauthorized leave as described in Section 31.3.7.A. If a patient who is on unauthorized leave (an escapee) is picked up out of state, the out-of-state locating agency will send a hit confirmation. The out-of-state locating agency shall be advised not to enter a locate message on the NCIC record, preventing the automatic cancelation of the LEIN/NCIC record. The hospital shall be notified that the patient was located.
- (6) This department shall not provide transportation when a subject is apprehended by another agency.

F. When the individual has not been found, the following steps shall be followed:

- (1) Continue the investigation for up to 30 days.
- (2) Submit a follow-up complaint every three months and request local police agencies to renew their investigations; notify the institution.
- (3) Make a follow-up investigation every three months if local police agencies are unable to do so.
- (4) A patient on unauthorized leave (an escapee) who does not return to the institution at the end of one year or is not given convalescent leave before that time will be discharged by the facility director. At this time, the incident shall be closed. Criminal offenders shall not be discharged at the end of one year.

G. When the patient (escapee) is known to be in another state, the following steps shall be taken:

- (1) Authorities in that state shall be notified by administrative message through LEIN/NLETS.
- (2) The institution shall be notified, and a record of the notification shall be made.
- (3) Enlisted members shall not travel out of state to pick up individuals who are subject to return.

### 31.3.8. INVESTIGATIONS

#### A. Facilities Covered

- (1) The department shall conduct investigations of crimes occurring on property owned by the MDHHS, whether located outside or inside city limits when such crimes are against recipients of services provided by the MDHHS owned and operated hospitals/centers, provided the criteria of Section 31.3.8.C are met.
- (2) The department shall conduct investigations of crimes occurring against patients of homes or facilities under contract with primary facilities only if the home or facility is located outside the corporate limits of a city.
  - a. If the contracted home or facility is located within the corporate limits of a city having an organized police department, the local department shall be contacted and requested to conduct an investigation.

#### B. Requests

- (1) Requests for State Police investigations should be initiated by the facility director or designee on recommendation of the local rights advisor.
- (2) The local rights advisor may request an investigation through the State Office of Recipient Rights.

#### C. Criteria for Initiation of a State Police Investigation (one or more)

- (1) Per [MCL 330.1723](#), a mental health professional employed by or under contract to the department, a licensed facility, or community mental health services program or a person employed by a provider under contract to a community mental health services program who has reasonable cause to suspect the criminal abuse of a recipient shall immediately make an oral report of the suspected criminal abuse to the law enforcement agency for the county or city in which the abuse is suspected to have occurred or to the State Police.
- (2) Within 72 hours after making the oral report, the reporting person shall file a written report with the law enforcement agency to which the oral report was made, and with the chief administrator of the facility or agency responsible for the recipient.
- (3) The written report required by subsection (2) shall contain the name of the recipient and a description of the criminal abuse and other information available to the reporting individual that might establish the cause of the criminal abuse and the manner in which it occurred. The report shall become a part of the recipient's clinical record. Before the report becomes part of the recipient's clinical record, the names of the reporting individual and the individual accused of committing the criminal abuse, if contained in the report, shall be deleted.
- (4) The identity of an individual who makes a report under this section is confidential and is not subject to disclosure without the consent of that individual or by order or subpoena of a court of record.
- (5) As used in this section, "criminal abuse" means one or more of the following:
  - a. An assault, which is a violation of [MCL 750.81 to 750.90](#), including an attempt or a conspiracy to commit a violation of those sections. Abuse does not include an assault that is a violation of [MCL 750.81](#) and is committed by an individual who

receives services in a facility against another recipient or resident or an individual who receives mental health services from the MDHHS, a Community Health Service program, or a facility or from a provider that is under contract with the MDHHS or a Community Health Services program.

- b. A criminal homicide, which is a violation of [MCL 750.316, 750.317, and 750.321](#), including an attempt or a conspiracy to commit a violation.
  - c. Criminal sexual conduct, which is a violation of [MCL 750.520b to 750.520e](#), or assault with intent to commit criminal sexual conduct, which is a violation of [MCL 750.520g](#), including an attempt or a conspiracy to commit a violation.
  - d. Vulnerable adult abuse, which is a violation [MCL 750.145n](#), including an attempt or a conspiracy to commit a violation.
  - e. Child abuse, which is a violation of [MCL 750.136b](#), including an attempt or a conspiracy to commit a violation.
- (6) [MCL 330.1723b](#) does not prohibit any individual who has reasonable cause to suspect the criminal abuse of a recipient from making a report to the appropriate law enforcement agency or the MDHHS, or Community Mental Health Service program.
- D. The results of an investigation shall be reviewed with the appropriate hospital/center director or regional director. Enlisted members shall provide evidence and testimony, if requested, at administrative or Civil Service hearings.
- E. Copies of investigative reports shall be released to the hospital/center only by the Records Resource Section. Local commanders should inform the hospital/center that a request for the report can be submitted via email to [msprecords@michigan.gov](mailto:msprecords@michigan.gov).

### 31.4 MISSING PERSONS

This section provides guidance and procedures to be followed when a missing person is reported and the actions to be taken in attempting to locate them. This section also identifies specific procedures to be followed when enforcement members investigate incidents involving unidentified bodies.

#### 31.4.1. REPORTING REQUIREMENTS

- A. Enforcement members shall accept any report of a missing person without delay and shall not refuse to accept the report because of any of the following circumstances:
- (1) The missing person is an adult.
  - (2) The circumstances of the person's disappearance do not initially indicate the presence of foul play.
  - (3) The circumstances of the person's disappearance initially indicate that it was voluntary.
  - (4) The person has only been missing for a short period of time.
  - (5) The person has been missing for a long period of time.
  - (6) There is no indication that the missing person was in the department's jurisdiction or a particular post's area at the time of the disappearance.

- (7) The person reporting the incident does not have personal knowledge of the facts of the disappearance (e.g., they heard about it from another person), or they cannot provide all the information requested by the investigator.
  - (8) The person reporting the incident does not have a familial or other relationship with the missing person.
- B. Efforts shall be made to assure the complainant that everything possible will be done to locate the missing person. In cases where the missing person is not considered a high-risk missing person as defined below, the complainant shall also be informed that although a missing person is a cause for concern, it is not a violation of law and the case must therefore be assigned a lower work priority than criminal matters.
  - C. The investigating member may continue to provide the complainant with general information about the progress of the investigation as long as its disclosure would not adversely affect the investigating member's ability to locate or protect the missing person or apprehend or prosecute any person criminally involved in the case.
  - D. The investigating member shall advise the complainant and any other involved party to promptly contact them with any information and materials that might aid in locating the missing person.
  - E. In cases where an AMBER Alert Notification would not be an appropriate consideration and when a missing person meets the requirements for LEIN/NCIC entry listed in Section 31.4.3, local media outlets may be contacted to solicit their assistance with locating the missing person. This can be accomplished by providing the media outlet a Michigan Digital Image Retrieval System (MIDIRS) image, if available, a description of the missing person, and a description of the missing person's vehicle, if applicable, for broadcast.

#### 31.4.2. REQUIRED DOCUMENTS

##### A. Incident Report

An incident report shall be submitted whenever a missing person is reported. The report shall include as much of the following information as possible:

- (1) Complete name of the missing person, including any aliases.
- (2) Date of birth.
- (3) Identifying scars, marks, and tattoos.
- (4) Height and weight.
- (5) Gender.
- (6) Race.
- (7) Current hair color, as well as true or natural hair color.
- (8) Eye color.
- (9) Prosthetics, surgical implants, cosmetic implants.
- (10) Physical anomalies.



- (11) Blood type.
- (12) Driver's license number and other personal identification numbers such as their social security number.
- (13) Banking, credit card, or other financial transaction history information.
- (14) A current photograph and the date the photograph was taken (preferably a photograph showing facial features and physical characteristics).
- (15) A description of the clothing believed to be worn at the time of the disappearance.
- (16) A description of the items that might be with the missing person, e.g., jewelry, accessories.
- (17) Information on the missing person's electronic communications, e.g., cellular telephone and/or pager records, internet access history.
- (18) Reasons why the reporting person believes the person in question is missing.
- (19) Name and location of the missing person's school, employer, and other frequently visited locations.
- (20) Name, address, and phone number of the missing person's dentist.
- (21) Any circumstances that may indicate that the disappearance was not voluntary.
- (22) Description of any possible means of transportation, e.g., airline or bus itinerary, the missing person's vehicle information.
- (23) Any identifying information about a known or possible abductor and/or person last seen with the missing person, including their name, physical description, date of birth, identifying scars/marks, description of a possible means of transportation, and any known associates.
- (24) Date of last contact.

B. Required Forms

- (1) Official Missing Person Report, UD-003E
  - a. An Official Missing Person Report, UD-003E, shall be completed and signed by the person reporting the missing person whenever a missing person is reported to the department.
  - b. Obtaining the information required in the verification section of the Official Missing Person Report, UD-003E, shall not delay a member from entering a missing person into the LEIN/NCIC in situations where prompt entry is required (i.e., missing person is under 21 years of age). In such cases, however, the complainant shall be advised that the necessary information must be provided within eight hours.
- (2) Supplemental Dental Report, CJIS-010
  - a. A Supplemental Dental Report, CJIS-010, shall be completed and entered into LEIN/NCIC whenever:

- i. A person is reported missing and there is suspicion of foul play.
- ii. A missing person has not been found within 30 days of the initial report.
- iii. An unidentified body is found.
  - 1) When an unidentified body is found, a CJIS-010 shall be completed by the medical examiner.
  - 2) When the CJIS-010 is received from the medical examiner, the information shall be entered into LEIN/NCIC according to the instructions found in the LEIN Operations Manual. The CJIS-010 and the LEIN/NCIC printout, which verifies the information has been entered, shall be filed with the work copy of the incident report.
- b. If a person reported missing has not been found within 30 days and the dental records have not been entered into LEIN/NCIC:
  - i. The investigating enforcement member shall re-contact the parent/legal guardian or next of kin and request that the release section of the CJIS-010 be signed.
  - ii. If the parent/legal guardian or next of kin refuses to authorize release of the missing person's dental records, this information shall be documented in the incident report and the LEIN/NCIC missing person record shall be updated according to the instructions found in the LEIN Operations Manual to indicate dental records are "unknown."
- c. When the signed release has been obtained, the investigating enforcement member shall request the missing person's dentist complete the CJIS-010 and return it to the investigator's work unit.
- d. After the CJIS-010 is received from the dentist, the information shall be entered into LEIN/NCIC according to the instructions found in the LEIN Operations Manual. The CJIS-010 and the LEIN/NCIC printout, which verifies the information has been entered, shall be filed with the work copy of the incident report.

#### 31.4.3. LEIN/NCIC ENTRY

- A. The following types of missing persons shall be entered into the LEIN/NCIC system immediately after the preliminary investigation is conducted:
  - (1) Disability: A person of any age who is missing and who suffers from a proven physical or mental disability, including senility.
 

The verification section of the Official Missing Person Report, UD-003E, shall be completed and a written statement from a physician or other authoritative source corroborating the missing person's physical or mental disability shall be obtained.
  - (2) Endangered: A person of any age who is missing under circumstances indicating that the missing person's physical safety is in danger.
 

The verification section of the Official Missing Person Report, UD-003E, shall be completed by a parent, legal guardian, family member, or other authoritative source stating that the missing person's physical safety is in danger and explaining why.

- (3) Involuntary: A person of any age who is missing and it is believed that their disappearance was not voluntary.

The verification section of the Official Missing Person Report, UD-003E, shall be completed by a parent, legal guardian, family member, or other authoritative source stating that they believe the disappearance was not voluntary and explaining why.

- (4) Disaster Victim: A person of any age missing as the result of a natural or intentionally caused catastrophe, or an extraordinary accident that causes the loss of human life.

The verification section of the Official Missing Person Report, UD-003E, shall be completed by a parent, legal guardian, family member, or other authoritative source.

- (5) A person who is not emancipated, as defined by the laws of their state of residence, and who does not meet any of the criteria set forth above under Disability, Endangered, Disaster Victim, or Involuntary.

- (6) Any person under 21 years of age. Per 42 USC 5779(a), agencies are required to immediately enter records into the NCIC Missing Person File. These individuals shall be entered in the appropriate missing person category. Any missing person over the age of 17 and less than 21 who does not meet the criteria of any of the above categories must be entered in the category of "Other."

- a. The AMBER Alert code shall be used when the missing person's age is less than 17 and an AMBER Alert has been issued.
- b. If the missing person is a juvenile, the verification section of the Official Missing Person Report, UD-003E, shall be completed by a person who has legal custody of the juvenile, confirming that the person is missing and verifying the date of birth.

- B. Information on all unidentified bodies shall be entered into the NCIC unidentified person file.
- C. When the information has been entered into the LEIN/NCIC system, the LEIN printout verifying the entry shall be attached to the work copy of the incident report.
- D. Any worksite receiving a report of a missing child shall broadcast the name, address, and vital statistics of the child via LEIN administrative message to all of the following:
  - (1) All law enforcement agencies having jurisdiction of the location where the missing child lives or was last seen.
  - (2) Any other law enforcement agency that could potentially become involved in locating the child.
  - (3) Any other law enforcement agency if requested by the individual who reported the child missing, and if the request is reasonable.

#### 31.4.4. LEIN/NCIC CANCELLATION

Missing persons who have been entered into LEIN/NCIC and unidentified bodies entered into LEIN/NCIC shall be promptly canceled in the system when located/identified.

#### 31.4.5. HIGH-RISK MISSING PERSON

- A. All incidents involving missing persons and unidentified bodies shall be investigated to the extent possible. Special attention shall be given to cases that involve high-risk missing persons, which are defined as individuals whose whereabouts are not currently known and the circumstances of their disappearance indicate that the individual may be at risk of injury or death. Such circumstances may include any of the following:
- (1) The person is missing as a result of a stranger abduction.
  - (2) The person is missing under unknown or suspicious circumstances.
  - (3) The person is missing under known dangerous circumstances.
  - (4) The person is missing more than 30 days.
  - (5) The person has already been designated as a high-risk missing person by another law enforcement agency.
  - (6) The person is in need of medical attention or prescription medication.
  - (7) The person missing does not have a pattern of running away or disappearing.
  - (8) The person missing may have been abducted by a non-custodial parent.
  - (9) The person missing is mentally impaired.
  - (10) The person missing is under the age of 21.
  - (11) The person missing has been the subject of past threats or acts of violence.
  - (12) Any other factor that may, in the judgment of the investigator, determine that the missing person may be at risk.
- B. Assessment of Risk
- (1) Upon initial receipt of a missing person report, the investigator shall immediately determine whether there is a basis to determine that the person missing is a high-risk missing person as described above.
  - (2) If the investigator has previously determined that a missing person is not a high-risk missing person, but obtains new information, the investigator shall reevaluate whether the missing person should be considered at "high risk" in light of the new information.
  - (3) Risk assessments identified in this subsection shall be performed no later than three hours after the initial missing person(s) report or the new information was provided to the investigator.
- C. Endangered Missing Advisory (EMA) is used for cases involving missing persons that do NOT meet the AMBER Alert criteria. The EMA provides a platform to notify the news media in the affected geographic region(s) that there is a missing person in a dangerous situation without having to invoke the AMBER Alert through the Emergency Broadcast System or Wireless Emergency Alert (WEA), thus, reserving AMBER Alerts for the most high-profile and dangerous abduction cases. The EMA can be utilized for endangered missing persons of all ages.

- (1) Activation of such an advisory must meet the following criteria:
  - a. The circumstances do NOT meet the criteria to issue an AMBER Alert.
  - b. The person is missing under suspicious or unexplained circumstances.
  - c. The person is believed to be in danger because of age, health, mental or physical disability, environment, weather conditions, or in the company of a potentially dangerous person or some other factor that may expose the person to serious harm or injury.
  - d. Public information is available that could assist in the safe recovery of the person.
- (2) The procedures for activation of the EMA are:
  - a. The law enforcement agency (LEA) requesting the EMA must have a valid description of the missing person (e.g., race, sex, height, weight, hair and eye color, scars, marks or tattoos and a clothing description).
  - b. The EMA can be issued for missing persons of all ages.
- (3) The LEA must have entered the victim into the LEIN/NCIC system as an "Endangered Missing Person" as directed by [MCL 28.258](#).
- (4) The requesting LEA must provide a 24-hour telephone number to be disseminated to the public when activating the advisory.
- (5) The request for an EMA must be submitted in a timely manner. An activation may only occur outside of this time frame if the investigating agency has developed significant and reliable information that the victim is within the immediate area or has obtained eyewitness information on the endangered victim's possible location.
- (6) The activating LEA can submit an update on the advisory if new information has developed through the investigation that can assist in the recovery of the victim.
- (7) The EMA can only be activated through the MSP Operations Section.
- (8) MSP Operations Section will disseminate an approved EMA to news outlets in the affected geographic region(s).
- (9) MSP Operations Section will complete the EMA news release template utilizing the Information provided by the LEA, including adding a 24-hour contact phone number at the LEA for media inquiries and/or public tips.
- (10) The EMA will be sent by the Operations Section via email to major news outlets in the geographic district of the incident and to other geographic districts as dictated by the specific case. The Emergency Broadcast System (EBS) shall NOT be utilized for an EMA.
- (11) The EMA may be upgraded to an AMBER Alert if the person is under the age of 18 and the circumstances of the case change or if new information becomes available that indicates the case fits the AMBER Alert activation criteria.

- (12) If a cancellation of the EMA is requested and/or the advisory is canceled, a media release canceling the advisory shall be issued by MSP Operations Section to all media who received the previous advisory.
- (13) The EMA is meant for localized efforts. The release shall not be disseminated statewide unless information obtained by the requesting LEA denotes cross-state travel. (This excludes dissemination on social media which cannot be localized).

#### 31.4.6. MISSING JUVENILES

##### A. School Notification

When a missing child has not returned within 14 days and there is reason to believe the child may be enrolled in a school district in this state, the post commander shall notify the child's last known school district in writing.

- (1) The correspondence to the child's school district shall include the following information:
  - a. Information that the child is reported as missing.
  - b. The child's name, address, physical description, date of birth, state of birth, and mother's birth name, if known.
  - c. The date the child was reported missing and the date the child turns 17.
- (2) A copy of the correspondence shall be filed with the master file copy of the incident report.

##### B. AMBER Alert

- (1) The Michigan AMBER Alert Program is a partnership between law enforcement, AMBER Alert partner agencies, and the broadcast media to facilitate the immediate dissemination of information to the public about an abducted and endangered missing child. MCL 28.751, et seq. establishes the Michigan AMBER Alert Program and places the responsibility for the Michigan AMBER Alert system with the Department of State Police.
- (2) The Michigan State Police is the sole agency responsible for reviewing all AMBER Alert requests and determining whether or not an AMBER Alert will be issued. A Michigan AMBER Alert may only be requested by a LEA that is actively investigating a case. If a LEA outside the state of Michigan requests a Michigan AMBER Alert; the same requirements apply.
  - a. Enforcement members investigating incidents of missing children under the age of 18 shall consider using the Michigan AMBER Alert Program when the disappearance meets the following criteria:
    - i. Law enforcement believes a child under the age of 18 has been abducted and is in imminent danger of serious bodily injury or death.
    - ii. There is sufficient information available to disseminate to the public that could assist with the safe recovery of the child and/or the apprehension of the suspect.

- b. AMBER Alert cannot be activated for a runaway child or a child who is a victim of parental abduction involved in a civil dispute over custody, except as listed in Section 31.4.6.B(1)a(i) above.
- c. An enforcement member requesting AMBER Alert activation must enter the child into the LEIN/NCIC system as an "Endangered Missing Person," pursuant to [MCL 28.258](#).
- d. The enforcement member requesting an AMBER Alert activation must contact MSP Operations Section and request an AMBER Alert within 24 hours of the child being reported missing.
- e. Activation may only occur outside of 24 hours if the investigating LEA has developed significant and reliable information that the child is still within the immediate area and/or has obtained eyewitness information on the abducted child's possible location. The enforcement member shall contact MSP Operations Section at 517-241-XXXX to speak to the on-duty lieutenant to request an AMBER Alert.

All updates on a current AMBER Alert, including its cancellation, shall be submitted to MSP Operations Section.

- f. Enforcement members who have utilized the AMBER Alert system shall complete the required after-action report and submit it to: [msp-missingpersons@michigan.gov](mailto:msp-missingpersons@michigan.gov).
- g. For incidents which do not meet the AMBER Alert protocol, enforcement members are encouraged to utilize the Endangered Missing Advisory.

#### C. Missing Children's Information Clearinghouse

- (1) [MCL 28.259](#) establishes a Missing Children's Information Clearinghouse in the department.
- (2) The clearinghouse shall serve as a central repository of information regarding missing children. Information collected shall be disseminated to assist in the location of missing children.
- (3) Responsibility for administration of the clearinghouse is assigned to the Michigan Intelligence Operations Center. The clearinghouse shall provide services considered appropriate to aid in the location of missing children, including the following:
  - a. Ensure that LEAs in Michigan report missing children by entering them into the LEIN/NCIC system from their jurisdiction using established procedures found in the LEIN Operations Manual, and as required by law.
  - b. Prepare an annual report for distribution, containing statistical information about missing children in Michigan.

### 31.5 VULNERABLE ADULTS

The information in this order constitutes the department's policy and guidance for responding to and investigating vulnerable adult abuse incidents in violation of the Michigan Penal Code, [MCL 750.145m, et seq](#), reporting responsibilities when an enforcement member suspects or has reasonable cause to believe that an adult has been subjected to abuse, neglect, or exploitation pursuant to the Social Welfare Act, [MCL 400.11 et seq](#), and member responsibilities pursuant to



the Mozelle Senior or Vulnerable Adult Medical Alert Act , [MCL 28.711 et seq.](#) Enforcement members shall familiarize themselves with these statutory provisions.

#### 31.5.1. INVESTIGATING VULNERABLE ADULT ABUSE

- A. In all matters brought to the attention of the department concerning abuse, neglect, or exploitation of an adult, the enforcement member shall conduct a complete investigation.
- B. Enforcement members shall take appropriate measures to ensure the safety of the adult, MDHHS worker, or any person involved in the investigation of vulnerable adult abuse incidents.
- C. In vulnerable adult abuse investigations, enforcement members shall satisfy the legal obligations to conduct a criminal investigation and, as such, the findings of the investigation shall be submitted to the prosecutor.
- D. Investigating enforcement members shall coordinate with the MDHHS when conducting investigations under authority of the Social Welfare Act.
- E. Whenever possible, the investigating enforcement member shall respond to the initial report of suspected abuse, neglect, or exploitation of an adult while accompanied by a protective service worker from the local MDHHS.
- F. Law enforcement will provide the MDHHS and the prosecuting attorney with relevant information and police reports necessary for the MDHHS to complete the State of Michigan reporting requirements.
- G. Law enforcement will inform the MDHHS and the prosecuting attorney when any case involving a vulnerable adult is referred to the Michigan attorney general or the United States attorney.

#### 31.5.2. SOCIAL WELFARE ACT REQUIREMENTS

- A. The Social Welfare Act, [MCL 400.11 et seq.](#), specifies reporting procedures for enforcement members who suspect or have reasonable cause to believe that an adult has been abused, neglected, or exploited. The following procedures shall be used to report this type of incident.
  - (1) The investigating enforcement member shall immediately report the incident by telephone or other means to MDHHS Centralized Intake for Abuse and Neglect (Central Intake) at 855-444-XXXX.
  - (2) After making an oral report of an incident alleging the abuse, neglect, or exploitation of an adult, an enforcement member shall file a written report which may be submitted to Centralized Intake by fax at 616-977-XXXX or email at MDHHS-CPS-CIGroup@michigan.gov.
  - (3) When someone other than the investigating enforcement member submits a written report, it shall be noted in the incident report.
  - (4) When the enforcement member submits a written report, a copy shall be attached to the work and master file copies of the incident report.



B. Emergency Placement

- (1) If the enforcement member determines that emergency placement of a vulnerable adult is necessary, the enforcement member shall call Central Intake at 855-444-XXXX.
- (2) Regardless of whether emergency placement is necessary, enforcement members shall also ensure that a vulnerable adult receives necessary medical attention whenever the health or welfare of the adult is endangered.

C. The Michigan Model Vulnerable Adult Protocol

- (1) The Social Welfare Act mandated the development of a state model protocol for the investigation of vulnerable adult abuse cases. A county prosecuting attorney, in cooperation with the local county MDHHS and local law enforcement agencies, may have adopted a local protocol for the investigation of vulnerable adult abuse cases that is based on the state protocol.
- (2) Enforcement members investigating suspected cases of vulnerable adult abuse should follow the appropriate protocol established by the prosecutor in the enforcement member's post area.
- (3) If no protocol has been established in the enforcement member's post area, the enforcement members must review and have knowledge of the Michigan Model Vulnerable Adult Protocol.

31.5.3. MOZELLE SENIOR OR VULNERABLE ADULT MEDICAL ALERT ACT

- A. The Mozelle Senior or Vulnerable Adult Medical Alert Act, [MCL 28.711 et seq](#), provides an official response to reports of certain missing persons; allows for the broadcast of information related to those missing individuals; and provides civil immunity to broadcasters and newspapers that notify the public of such incidents.
- B. Reports on Missing Senior or Vulnerable Adults: When an enforcement member receives notice of a missing senior or vulnerable adult from a person familiar with the missing senior or vulnerable adult, the enforcement member shall prepare a report as soon as practicable and include all of the identifying information required pursuant to [MCL 28.713](#).
- C. Forwarding Information: After obtaining the information necessary to complete the report required in Section 31.4.2.A, the enforcement member shall as soon as practicable, cause that information to be forwarded to all of the LEAs and news media as required by [MCL 28.715](#). Enforcement members may enter the "missing vulnerable adult" information into the LEIN/NCIC system in accordance with section 31.4.3 and MCL 28.258.
- D. Investigation: Enforcement members shall begin an investigation concerning the missing senior or vulnerable adult as soon as possible after receiving notification of a missing senior or vulnerable adult.
- E. Enforcement members shall also comply with the procedures and policy for missing persons as otherwise set forth in this Order.

**31.6 REVISION RESPONSIBILITY**

Responsibility for continuous review and revision of this Order lies with the Field Support Bureau (Biometrics and Identification Division, Criminal Justice Information Center, and Intelligence Operations Division), and the Field Operations Bureau (Special Investigation Division), in cooperation with Executive Operations.

DIRECTOR

C



# Illegal adoptions

Special Rapporteur on the sale and sexual exploitation of children

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Illegal adoptions



Adoptions resulting from crimes such as abduction and sale of and trafficking in children, fraud in the declaration of adoptability, falsification of official documents or coercion, and any illicit activity or practice such as lack of proper consent by biological parents, improper financial gain by intermediaries and related corruption, constitute illegal adoptions and must be prohibited, criminalized and sanctioned as such.

Illegal adoptions violate multiple child rights norms and principles, including the best interests of the child, the principle of subsidiarity and the prohibition of improper financial gain. These principles are breached when the purpose of an adoption is to find a child for adoptive parents rather than a family for the child.

## Action of the Special Rapporteur





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During the 34th session of the Human Rights Council in March 2017, the Special Rapporteur on the sale and sexual exploitation of children presented a **thematic report** on illegal adoptions.

The Special Rapporteur’s **statement**, a **press release**, a summary of the **interactivedialogue** with Member States, and a summary of the **side event** organized on this subject are available through the relevant links.

*Key recommendations from the report propose that Member States:*

- **Adopt legislation that prohibits and criminalizes illegal adoption as a separate offence**, as well as the sale of and trafficking in children that result in illegal adoptions, with sanctions that reflect the gravity of the crimes;





increasing support to vulnerable families and providing alternative childcare measures in which adoptions respect the principle of subsidiarity and ensure the best interests of the child;

- **Establish and implement a single process for adoption** that includes a holistic assessment of the child's full range of rights, **and prohibit private and independent adoptions**;
- **Adopt adequate regulation on procedures and safeguards in relation to domestic and intercountry adoptions**, including in relation to the determination of adoptability, and establish effective mechanisms for overseeing adoption processes, especially with respect to verifying the background of any child who is declared an orphan;
- **Establish mechanisms for addressing the concerns of adoptees, adoptive parents and biological parents** about the circumstances of an adoption and for facilitating the search for origins and the request for reparations where appropriate;
- **Ensure the right to truth, justice, reparation and guarantees of non-recurrence of victims of large-scale illegal adoptions** by reforming institutions that were either involved in or incapable of preventing abuses, **and guarantee the effective and meaningful participation of victims** in the design and implementation of measures to obtain comprehensive redress;
- **Take effective measures to protect children who are victims of armed conflict and natural disasters** from becoming victims of illegal adoption.

## In respect of intercountry adoptions:

- **Central authorities should ensure the effective monitoring of activities of adoption accredited bodies** to guarantee their transparency and accountability;
- Annual quotas for adoptions by countries and/or agencies should be eliminated and the "reversal in the flow of files" approach should be adopted by refusing to accept





approvals of prospective adoptive parents into line with the projected number of adoptees, adopt stricter criteria for approval, **and provide more complete information, including on mechanisms available to report and denounce illicit practices;**

- **In dealing with States not parties to the 1993 Hague Convention, receiving countries that are parties to the Convention should apply as far as practicable the standards and safeguards of the Convention;**
- **Official fees must be sufficient to cover costs** and full details must be made available for public consultation;
- **The provision of development or humanitarian aid must not be linked to an authorization to carry out adoptions;**
- **Contributions and donations should be separated from adoption;**
- **Payments by agencies or prospective adopters to residential care facilities must be prohibited.**

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**FBI Detroit**  
Special Agent Mara Schneider  
(313) 965-5749

November 9, 2021

## FBI Warns the Public About Domestic Adoption Fraud Schemes

Whether you are a birth mother or a prospective adoptive family, the adoption process can be filled with uncertainty. FBI Detroit wants to help anyone involved in the adoption process spot potential fraud schemes and to encourage anyone who believes they may be involved in a fraudulent adoption scheme to report it to the FBI.

Adoption fraud refers to any form of intentional misrepresentation or illegal act in the area of adoption. Any participant involved in an adoption—birth parents, prospective adoptive parents, and adoption service providers—are all capable of fraud.

The FBI wants everyone involved in the adoption process to be aware of a few common adoption fraud schemes:

- Double matching occurs when a birth mother's baby is matched to more than one prospective adoptive parent.
- Fabricated matching occurs when prospective adoptive parents are matched to a fictitious birth mother, a birth mother who is not pregnant, or a birth mother who is not genuinely interested in placing her baby for adoption.
- Fee-related schemes include adoption service providers requiring prospective adoptive parents to pay exorbitant fees upfront or on a recurring basis but failing to provide services promised.

Fraudulent adoption service providers may:

- Misrepresent professional licenses or education
- Make unsolicited contact to sign up birth mother or prospective adoptive parents
- Be difficult to reach via phone or email, despite multiple attempts
- Unnecessarily control communications between adoption participants
- Quote highly negotiable and inconsistent fees
- Encourage prospective adoptive parents to pay expenses immediately to avoid losing out on opportunity to adopt
- Demonstrate a pattern of requesting additional unexpected fees throughout the process
- Make guarantees about the adoption process, such as:
  - Matching within a specific time frame
  - Birth parents' willingness to adopt
  - How quickly and easily the adoption will be legally finalized.

Fraudulent adoption service providers create a sense of urgency to produce fear and to lure birth parents and/or prospective adoptive parents into immediate action. Resist the pressure to act quickly.

If you believe you have been victimized by an adoption fraud scheme or believe you may be working with a fraudulent adoption service provider, report it to FBI Detroit at 313-965-2323, call 1-800-CALL-FBI, or submit tips online at [tips.fbi.gov](https://tips.fbi.gov). A report can also be filed with the Internet Crimes Complaint Center (IC3) at [ic3.gov](https://ic3.gov).

Visit [detroit.fbi.gov](https://detroit.fbi.gov) or [fbi.gov/adoptionfraud](https://fbi.gov/adoptionfraud) to get more information about adoption fraud.

If you would like adoption fraud brochures for distribution, please contact SA Mara Schneider at [mrschneider@fbi.gov](mailto:mrschneider@fbi.gov).

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