

SENATE BILL NO. 515

May 21, 1997, Introduced by Senators EMMONS and GOUGEON
and referred to the Committee on Families, Mental Health
and Human Services.

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending sections 7 and 8 (MCL 722.627 and 722.628), section 7
as amended by 1995 PA 225 and section 8 as amended by 1988 PA
372, and by adding sections 7b, 8b, and 8c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) The department shall maintain a STATEWIDE,
2 ELECTRONIC central registry to carry out the intent of this act.
3 ~~—A—~~ EXCEPT AS PROVIDED IN SECTION 7B, A written report, document,
4 or photograph filed with the department as provided in this act
5 is a confidential record available only to 1 or more of the
6 following:

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

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

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

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

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

15 (f) A person named in the report or record, if the identity
16 of the reporting person is protected as provided in section 5.

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

19 (h) A grand jury that determines the information is neces-
20 sary in the conduct of the grand jury's official business.

21 (i) A person, agency, or organization engaged in a bona fide
22 research or evaluation project. ~~—, except—~~ THE PERSON, AGENCY, OR
23 ORGANIZATION SHALL NOT RELEASE information identifying a person
24 named in the report or record ~~—shall not be made available—~~
25 unless ~~—the department has obtained—~~ that person's written
26 consent IS OBTAINED. The person, agency, or organization shall
27 not conduct a personal interview with a family without the

1 family's prior consent and shall not disclose information that
2 would identify the child or the child's family or other identify-
3 ing information. THE DEPARTMENT SHALL REVIEW EACH PROJECT
4 REQUESTING INFORMATION UNDER THIS SUBDIVISION TO ASSURE THAT THE
5 RESEARCH WILL NOT HARM AN INDIVIDUAL WHO IS A SUBJECT OF THE
6 INFORMATION.

7 (j) A person appointed as legal counsel as prescribed in
8 section 10.

9 (k) A child placing agency licensed under ~~Act No. 116 of~~
10 ~~the Public Acts of 1973, being sections 722.111 to 722.128 of the~~
11 ~~Michigan Compiled Laws~~ 1973 PA 116, MCL 722.111 TO 722.128, for
12 the purpose of investigating an applicant for adoption, a foster
13 care applicant or licensee or an employee of a foster care appli-
14 cant or licensee, an adult member of an applicant's or licensee's
15 household, or other persons in a foster care or adoptive home who
16 are directly responsible for the care and welfare of children, to
17 determine suitability of a home for adoption or foster care. The
18 child placing agency shall disclose the information to a foster
19 care applicant or licensee under ~~Act No. 116 of the Public Acts~~
20 ~~of 1973~~ 1973 PA 116, MCL 722.111 TO 722.128, or to an applicant
21 for adoption.

22 (l) Juvenile court staff authorized by the court to investi-
23 gate foster care applicants and licensees, employees of foster
24 care applicants and licensees, adult members of the applicant's
25 or licensee's household, and other persons in the home who are
26 directly responsible for the care and welfare of children, for
27 the purpose of determining the suitability of the home for foster

1 care. The court shall disclose this information to the applicant
2 or licensee.

3 (m) Subject to section 7a, a standing or select committee or
4 appropriations subcommittee of either house of the legislature
5 having jurisdiction over protective services matters for
6 children.

7 (n) The children's ombudsman appointed under the children's
8 ombudsman act, ~~Act No. 204 of the Public Acts of 1994, being~~
9 ~~sections 722.921 to 722.935 of the Michigan Compiled Laws~~ 1994
10 PA 204, MCL 722.921 TO 722.935.

11 (o) Child fatality review teams authorized by the department
12 to investigate and review child deaths. The department shall not
13 authorize a child fatality review team to investigate and review
14 a child death unless the membership of the child fatality review
15 team consists of at least all of the following:

16 (i) A county medical examiner or deputy county medical
17 examiner APPOINTED UNDER 1953 PA 181, MCL 52.201 TO 52.216.

18 (ii) A representative of a local law enforcement agency.

19 (iii) A representative of the department.

20 (iv) The county prosecuting attorney or his or her
21 designee.

22 (v) A representative of the department of ~~public~~ COMMUNITY
23 health or a local health department.

24 (p) A county medical examiner or deputy county medical
25 examiner appointed under ~~Act No. 181 of the Public Acts of 1953,~~
26 ~~being sections 52.201 to 52.216 of the Michigan Compiled Laws~~
27 1953 PA 181, MCL 52.201 TO 52.216, for the purpose of carrying

1 out his or her duties under ~~Act No. 181 of the Public Acts of~~
2 ~~1953~~ THAT ACT.

3 (2) A person or entity to whom a report, document, or photo-
4 graph is made available shall make the report, document, or pho-
5 tograph available only to a person or entity described in
6 subsection (1). This subsection shall not be construed to
7 require a court proceeding to be closed that otherwise would be
8 open to the public.

9 (3) If a report of suspected child abuse or neglect is sub-
10 stantiated, the department shall maintain a record in the central
11 registry and, within 30 days after the substantiation, shall
12 notify in writing each individual who is named in the record as a
13 perpetrator of the child abuse or neglect. The notice shall set
14 forth the individual's right to request expunction of the record
15 and the right to a hearing if the department refuses the
16 request. The notice shall not identify the person reporting the
17 suspected child abuse or neglect.

18 (4) A person who is the subject of a report or record made
19 under this act may request the department to amend an inaccurate
20 report or record from the central registry and local office
21 file. A person who is the subject of a report or record made
22 under this act may request the department to expunge from the
23 central registry a report or record in which no relevant and
24 accurate evidence of abuse or neglect is found to exist. A
25 report or record filed in a local office file is not subject to
26 expunction except as the department authorizes, when considered
27 in the best interest of the child.

1 (5) If the department refuses a request for amendment or
2 expunction, or fails to act within 30 days after receiving the
3 request, the person shall be granted a hearing to determine by a
4 preponderance of the evidence whether the report or record in
5 whole or in part should be amended or expunged from the central
6 registry on the grounds that the report or record is not relevant
7 or accurate evidence of abuse or neglect. The hearing shall be
8 before a hearing officer appointed by the department and shall be
9 conducted pursuant to the administrative procedures act of 1969,
10 ~~Act No. 306 of the Public Acts of 1969, being sections 24.201 to~~
11 ~~24.328 of the Michigan Compiled Laws~~ 1969 PA 306, MCL 24.201 TO
12 24.328.

13 (6) If the investigation of a report conducted under this
14 act fails to disclose evidence of abuse or neglect, the informa-
15 tion identifying the subject of the report shall be expunged from
16 the central registry. If evidence of abuse or neglect exists,
17 the information identifying the subject of the report shall be
18 expunged when the child alleged to be abused or neglected reaches
19 the age of 18, or 10 years after the report is received by the
20 department, whichever occurs later.

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

1 (8) IF A CHILD FATALITY REVIEW TEAM AS DESCRIBED IN
2 SUBSECTION (1) DETERMINES THAT AN ACT OR OMISSION CONTRIBUTED TO
3 THE CHILD'S DEATH, THE REVIEW TEAM SHALL REPORT THAT DETERMINA-
4 TION TO THE DIRECTOR AND TO THE CHILDREN'S OMBUDSMAN APPOINTED
5 UNDER THE CHILDREN'S OMBUDSMAN ACT, 1994 PA 204, MCL 722.921 TO
6 722.935.

7 SEC. 7B. (1) THE DIRECTOR MAY RELEASE OTHERWISE CONFIDEN-
8 TIAL INFORMATION FROM THE RECORD REGARDING THE ABUSE OR NEGLECT
9 OF A CHILD IF 1 OR MORE OF THE FOLLOWING ARE TRUE:

10 (A) THE RELEASE IS IN THE BEST INTERESTS OF THE CHILD TO
11 WHOM THE INFORMATION PERTAINS.

12 (B) THE RELEASE IS IN THE BEST INTERESTS OF THE FAMILY OF
13 THE CHILD TO WHOM THE INFORMATION PERTAINS.

14 (C) THE RELEASE IS OF INFORMATION FROM THE RECORD OF A CHILD
15 WHO HAS DIED OR FROM THE RECORD OF THAT CHILD'S FAMILY.

16 (D) THE RELEASE IS NECESSARY TO PRESERVE THE INTEGRITY OF
17 THE CHILD PROTECTION SYSTEM.

18 (2) IF THE DIRECTOR DOES NOT ACT UNDER SUBSECTION (1) AND 1
19 OR MORE OF THE REQUIREMENTS LISTED IN SUBSECTION (1) ARE MET, THE
20 CHILDREN'S OMBUDSMAN APPOINTED UNDER THE CHILDREN'S OMBUDSMAN
21 ACT, 1994 PA 204, MCL 722.921 TO 722.935, MAY RELEASE THE OTHER-
22 WISE CONFIDENTIAL INFORMATION.

23 Sec. 8. (1) Within 24 hours after receiving a report made
24 ~~pursuant to~~ AS PRESCRIBED BY this act, the department shall
25 refer the report to the prosecuting attorney if the report meets
26 the requirements of section 3(6) ~~or~~ AND shall commence ~~an~~ A
27 FIELD investigation of the child suspected of being abused or

1 neglected. Within 24 hours after receiving a report whether from
2 the reporting person or from the department under section 3(6),
3 the local law enforcement agency shall refer the report to the
4 department if the report meets the requirements of section 3(7)
5 or shall commence an investigation of the child suspected of
6 being abused or neglected. If the child suspected of being
7 abused is not in the physical custody of the parent or legal
8 guardian and informing the parent or legal guardian would not
9 endanger the child's health or welfare, the agency or the depart-
10 ment shall inform the child's parent or legal guardian of the
11 investigation as soon as the agency or the department discovers
12 the identity of the child's parent or legal guardian.

13 (2) In the course of its investigation, the department shall
14 determine if the child is abused or neglected USING A RISK
15 ASSESSMENT TOOL DESIGNED TO DETERMINE LEVEL OF RISK FOR BOTH SUB-
16 STANTIATED AND UNSUBSTANTIATED CASES. The department shall coop-
17 erate with law enforcement officials, courts of competent juris-
18 diction, and appropriate state agencies providing human services
19 in relation to preventing, identifying, and treating child abuse
20 and neglect; shall provide, enlist, and coordinate the necessary
21 services, directly or through the purchase of services from other
22 agencies and professions AS DETERMINED BY THE LEVEL OF RISK IDEN-
23 TIFIED BY THE RISK ASSESSMENT TOOL; and shall take necessary
24 action to prevent further abuses, to safeguard and enhance the
25 welfare of the child, and to preserve family life where
26 possible. THE LEVEL OF RISK SHALL BE A FACTOR IN DETERMINING

1 WHETHER A PETITION IS FILED UNDER SECTION 2 OF CHAPTER XIIA OF
2 1939 PA 288, MCL 712A.2.

3 (3) In conducting its investigation, the department shall
4 seek the assistance of and cooperate with law enforcement offi-
5 cials within 24 hours after becoming aware that 1 or more of the
6 following conditions exists:

7 (a) Abuse or neglect is the suspected cause of a child's
8 death.

9 (b) The child is the victim of ~~suspected sexual abuse or~~
10 ~~sexual exploitation~~ AN ACT THAT IS A VIOLATION OF THE MICHIGAN
11 PENAL CODE, 1931 PA 328, MCL 750.1 TO 750.568.

12 (c) Abuse or neglect resulting in severe physical injury to
13 the child requires medical treatment or hospitalization. For
14 purposes of this subdivision, "severe physical injury" means
15 brain damage, skull or bone fracture, subdural hemorrhage or
16 hematoma, dislocation, sprains, internal injuries, poisoning,
17 burns, scalds, severe cuts, or any other physical injury that
18 seriously impairs the health or physical well-being of a child.

19 (d) Law enforcement intervention is necessary for the pro-
20 tection of the child, a department employee, or another person
21 involved in the investigation.

22 (e) The alleged perpetrator of the child's injury is not a
23 person responsible for the child's health or welfare.

24 (4) Law enforcement officials shall cooperate with the
25 department in conducting investigations pursuant to subsections
26 (1) and (3) and shall comply with sections 5 and 7.

1 (5) Involvement of law enforcement officials pursuant to
2 this section shall not relieve or prevent the department from
3 proceeding with its investigation or treatment if there is rea-
4 sonable cause to suspect that the child abuse or neglect was com-
5 mitted by a person responsible for the child's health or
6 welfare.

7 (6) ~~In each county, the prosecuting attorney and the~~
8 ~~department shall develop and establish procedures for involving~~
9 ~~law enforcement officials as provided in this section.~~ THE PROS-
10 ECUTING ATTORNEY FOR EACH COUNTY SHALL ADOPT AND IMPLEMENT A
11 COORDINATED INVESTIGATIVE TEAM APPROACH TO THE INVESTIGATION OF
12 CHILD ABUSE WITHIN HIS OR HER COUNTY. THIS APPROACH SHALL BE
13 BASED UPON THE PROTOCOL PUBLISHED BY THE GOVERNOR'S TASK FORCE ON
14 CHILDREN'S JUSTICE ENTITLED "A MODEL CHILD ABUSE PROTOCOL, COOR-
15 DINATED INVESTIGATIVE TEAM APPROACH", DSS PUBLICATION 794(8-93).

16 (7) If there is reasonable cause to suspect that a child in
17 the care of or under the control of a public or private agency,
18 institution, or facility is an abused or neglected child, the
19 agency, institution, or facility shall be investigated by an
20 agency administratively independent of the agency, institution,
21 or facility being investigated. If the investigation produces
22 evidence of a violation of section 145c or sections 520b to 520g
23 of the Michigan penal code, ~~Act No. 328 of the Public Acts of~~
24 ~~1931, being sections 750.145c and 750.520b to 750.520g of the~~
25 ~~Michigan Compiled Laws~~ 1931 PA 328, MCL 750.145C AND 750.520B TO
26 750.520G, the investigating agency shall transmit a copy of the
27 results of the investigation to the prosecuting attorney of the

1 county in which the agency, institution, or facility is located.
2 ~~The prosecuting attorney may proceed under sections 135 to 145c~~
3 ~~or 520b to 520g of Act No. 328 of the Public Acts of 1931, as~~
4 ~~amended, being sections 750.135 to 750.145c and 750.520b to~~
5 ~~750.520g of the Michigan Compiled Laws, when a violation of these~~
6 ~~sections has occurred.~~

7 (8) Schools and other institutions shall cooperate with the
8 department during an investigation of a report of child abuse or
9 neglect. Cooperation includes allowing access to the child with-
10 out parental consent if access is necessary to complete the
11 investigation or to prevent abuse or neglect of the child.
12 However, the person responsible for the child's health or welfare
13 shall be notified of the department's contact with the child at
14 the time or as soon afterward as the person can be reached and no
15 child shall be subjected to a search at a school which requires
16 the child to remove his or her clothing to expose his buttocks or
17 genitalia or her breasts, buttocks, or genitalia unless the
18 department has obtained an order from a court of competent juris-
19 diction permitting such a search. If the access occurs within a
20 hospital, the investigation shall be conducted so as not to
21 interfere with the medical treatment of the child or other
22 patients.

23 (9) Upon completion of the investigation by the local law
24 enforcement agency or the department, the law enforcement agency
25 or department ~~may~~ SHALL inform the person who made the report
26 IN WRITING as to the disposition of the report, INCLUDING WHETHER

1 THE CASE WAS SUBSTANTIATED OR NOT AND THE RATIONALE FOR THAT
2 DECISION.

3 SEC. 8B. THE PROSECUTING ATTORNEY FOR THE COUNTY IN WHICH A
4 CHILD IS LOCATED WHO IS THE SUBJECT OF AN UNSUBSTANTIATED CASE OF
5 CHILD ABUSE OR NEGLECT, WHICH CASE INVOLVES THE CHILD'S DEATH OR
6 SERIOUS PHYSICAL INJURY, OR THE SUSPICION OF SEXUAL ABUSE OR
7 EXPLOITATION, SHALL REVIEW THE INVESTIGATION OF THE CASE TO
8 DETERMINE IF THE INVESTIGATION COMPLIED WITH THE APPROACH ADOPTED
9 AS REQUIRED BY SECTION 8(3) AND (6).

10 SEC. 8C. (1) DURING AN INVESTIGATION OF SUSPECTED CHILD
11 ABUSE OR NEGLECT, THE CHILD REPORTED TO HAVE BEEN ABUSED OR
12 NEGLECTED SHALL NOT BE INTERVIEWED IN THE PRESENCE OF AN INDIVID-
13 UAL REPORTED TO HAVE PERPETRATED THE ABUSE OR NEGLECT.

14 (2) IF THE CHILD ABUSE REPORT INCLUDES ALLEGATION OF SEXUAL
15 ABUSE OR EXPLOITATION, ONLY AN APPROPRIATELY TRAINED AND QUALI-
16 FIED INTERVIEWER SHALL INTERVIEW THE CHILD. AN INTERVIEW PRE-
17 SCRIBED BY THIS SUBSECTION SHALL BE CONDUCTED IN A NEUTRAL LOCA-
18 TION IN A CONTROLLED SETTING.