

**SUBSTITUTE FOR
HOUSE BILL NO. 4586**

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending sections 2, 7, 7c, and 7j (MCL 722.622, 722.627,
722.627c, and 722.627j), section 2 as amended by 2002 PA 693,
section 7 as amended by 2002 PA 661, section 7c as added by 1998
PA 428, and section 7j as added by 2002 PA 716.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Adult foster care location authorized to care for a
3 child" means an adult foster care family home or adult foster
4 care small group home as defined in section 3 of the adult foster
5 care facility licensing act, 1979 PA 218, MCL 400.703, in which a
6 child is placed in accordance with section 5 of 1973 PA 116, MCL
7 722.115.

8 (b) "Attorney" means, if appointed to represent a child under

1 the provisions referenced in section 10, an attorney serving as
2 the child's legal advocate in the manner defined and described in
3 section 13a of chapter XIIIA of the probate code of 1939, 1939
4 PA 288, MCL 712A.13a.

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

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

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

16 (f) "Child abuse" means harm or threatened harm to a child's
17 health or welfare that occurs through nonaccidental physical or
18 mental injury, sexual abuse, sexual exploitation, or
19 maltreatment, by a parent, a legal guardian, or any other person
20 responsible for the child's health or welfare or by a teacher, a
21 teacher's aide, or a member of the clergy.

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

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

27 (i) "Child care regulatory agency" means the department of

1 consumer and industry services or a successor state department
2 that is responsible for the licensing or registration of child
3 care organizations or the licensing of adult foster care
4 locations authorized to care for a child.

5 (j) "Child neglect" means harm or threatened harm to a
6 child's health or welfare by a parent, legal guardian, or any
7 other person responsible for the child's health or welfare that
8 occurs through either of the following:

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

11 (ii) Placing a child at an unreasonable risk to the child's
12 health or welfare by failure of the parent, legal guardian, or
13 other person responsible for the child's health or welfare to
14 intervene to eliminate that risk when that person is able to do
15 so and has, or should have, knowledge of the risk.

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

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

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

26 (n) "CPSI system" means the child protective service
27 information system, which is an internal data system maintained

1 within and by the department, and which is separate from the
2 central registry and not subject to section 7.

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

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

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

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

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

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

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

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

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

23 (u) "Person responsible for the child's health or welfare"
24 means a parent, legal guardian, person 18 years of age or older
25 who resides for any length of time in the same home in which the
26 child resides, or, except when used in section 7(2)(e) or 8(8),
27 nonparent adult; or an owner, operator, volunteer, or employee of

1 1 or more of the following:

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

3 (ii) A licensed or unlicensed adult foster care family home
4 or adult foster care small group home as defined in section 3 of
5 the adult foster care facility licensing act, 1979 PA 218,
6 MCL 400.703.

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

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

13 (x) "Sexual exploitation" includes allowing, permitting, or
14 encouraging a child to engage in prostitution, or allowing,
15 permitting, encouraging, or engaging in the photographing,
16 filming, or depicting of a child engaged in a listed sexual act
17 as defined in section 145c of the Michigan penal code, 1931
18 PA 328, MCL 750.145c.

19 (y) "Specified information" means information in a ~~central~~
20 ~~registry~~ **children's protective services** case record ~~that~~
21 ~~relates specifically to referrals or reports~~ **related**
22 **specifically to the department's actions in responding to a**
23 **complaint** of child abuse or neglect. Specified information does
24 not include any of the following:

25 (i) Except as provided in this subparagraph regarding a
26 perpetrator of child abuse or neglect, personal identification
27 information for any individual identified in a child protective

1 services record. The exclusion of personal identification
2 information as specified information prescribed by this
3 subparagraph does not include personal identification information
4 identifying an individual alleged to have perpetrated child abuse
5 or neglect, which allegation has been classified as a central
6 registry case.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (h) A grand jury that determines the information is necessary
25 ~~in the~~ to conduct ~~of~~ the grand jury's official business.

26 (i) A person, agency, or organization engaged in a bona fide
27 research or evaluation project. The person, agency, or

1 organization shall not release information identifying a person
2 named in the report or record unless that person's written
3 consent is obtained. The person, agency, or organization shall
4 not conduct a personal interview with a family without the
5 family's prior consent and shall not disclose information that
6 would identify the child or the child's family or other
7 identifying information. The department director may authorize
8 the release of information to a person, agency, or organization
9 described in this subdivision if the release contributes to the
10 purposes of this act and the person, agency, or organization has
11 appropriate controls to maintain the confidentiality of
12 personally identifying information for a person named in a report
13 or record made under this act.

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

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

27 (l) ~~Juvenile~~ **Family division of circuit** court staff

1 authorized by the court to investigate foster care applicants and
2 licensees, employees of foster care applicants and licensees,
3 adult members of the applicant's or licensee's household, and
4 other persons in the home who are directly responsible for the
5 care and welfare of children, for the purpose of determining the
6 suitability of the home for foster care. The court shall
7 disclose this information to the applicant or licensee.

8 (m) Subject to section 7a, a standing or select committee or
9 appropriations subcommittee of either house of the legislature
10 having jurisdiction over **child** protective services matters. ~~for~~
11 ~~children.~~

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

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

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

20 (q) A citizen review panel established by the department.
21 Access under this subdivision ~~shall be~~ **is** limited to
22 information the department determines is necessary for the panel
23 to carry out its prescribed duties.

24 (r) A child care regulatory agency.

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

27 (3) Subject to subsection (9), a person or entity to whom

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

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

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

27 (6) If the department refuses a request for amendment or

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

11 (7) If the investigation of a report conducted under this act
12 fails to disclose evidence of abuse or neglect, the information
13 identifying the subject of the report shall be expunged from the
14 central registry. If evidence of abuse or neglect exists, the
15 department shall maintain the information in the central registry
16 until the department receives reliable information that the
17 perpetrator of the abuse or neglect is dead.

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

24 (9) A member or staff member of a citizen review panel shall
25 not disclose identifying information about a specific child
26 protection case to an individual, partnership, corporation,
27 association, governmental entity, or other legal entity. A

1 member or staff member of a citizen review panel is a member of a
2 board, council, commission, or statutorily created task force of
3 a governmental agency for the purposes of section 7 of 1964
4 PA 170, MCL 691.1407. Information obtained by a citizen review
5 panel is not subject to the freedom of information act, 1976
6 PA 442, MCL 15.231 to 15.246.

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

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

13 **(3) —(2)—** The director may designate another individual to
14 act for the director under sections 7d to 7i, and a reference to
15 the director under those sections applies to an individual
16 designated by the director.

17 **(4) —(3)—** For the purposes of sections 7d to 7i, a child's
18 best interest shall be determined based on all of the following:

19 (a) Protection of the child's safety.

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

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

25 **(5) —(4)—** Sections 7d to 7i do not subject a report or record
26 that is confidential under this act to disclosure under the
27 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

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

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

17 (3) The family independence agency may develop an automated
18 system that will allow an individual applying for child-related
19 employment or seeking to volunteer in a capacity that would allow
20 unsupervised access to a child for whom the individual is not a
21 person responsible for that child's health or welfare to be
22 listed in that system if a screening of the individual finds that
23 he or she has not been named in a central registry case as the
24 perpetrator of child abuse or child neglect. The automated
25 system developed under this section shall provide for public
26 access to the list of individuals who have been screened for the
27 purposes of complying with this section. An automated system

1 developed under this section shall have appropriate safeguards
2 and procedures to ensure that information that is confidential
3 under this act, state law, or federal law is not accessible or
4 disclosed through that system.

5 ~~(4) For the purposes of this section or section 7(2)(k) or~~
6 ~~(l), a case investigated before July 1, 1999 and entered in the~~
7 ~~central registry is considered a central registry case if that~~
8 ~~case meets the criteria under section 8(3)(a), (b), or (c).~~

9 (4) ~~(5)~~ As used in this section, "child care center",
10 "child caring institution", and "child placing agency" mean those
11 terms as defined in section 1 of 1973 PA 116, MCL 722.111.