

# SENATE BILL No. 1418

June 26, 2008, Introduced by Senators JANSEN, CROUSEY, KUIPERS, HARDIMAN, GILBERT, RICHARDVILLE, PAPPAGEORGE, BROWN, KAHN, VAN WOERKOM and BIRKHOLZ and referred to the Committee on Families 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 2006 PA 621 and section 8 as amended by 2008 PA 46.

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

7           (a) A legally mandated public or private child protective  
8 agency investigating a report of known or suspected child abuse or  
9 neglect or a legally mandated public or private child protective  
10 agency or foster care agency prosecuting a disciplinary action

1 against its own employee involving child protective services or  
2 foster records.

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

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

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

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

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

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

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

25 (i) A person, agency, or organization engaged in a bona fide  
26 research or evaluation project. The person, agency, or organization  
27 shall not release information identifying a person named in the

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

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

14 (k) A child placing agency licensed under 1973 PA 116, MCL  
15 722.111 to 722.128, for the purpose of investigating an applicant  
16 for adoption, a foster care applicant or licensee or an employee of  
17 a foster care applicant or licensee, an adult member of an  
18 applicant's or licensee's household, or other persons in a foster  
19 care or adoptive home who are directly responsible for the care and  
20 welfare of children, to determine suitability of a home for  
21 adoption or foster care. The child placing agency shall disclose  
22 the information to a foster care applicant or licensee under 1973  
23 PA 116, MCL 722.111 to 722.128, or to an applicant for adoption.

24 (l) Family division of circuit court staff authorized by the  
25 court to investigate foster care applicants and licensees,  
26 employees of foster care applicants and licensees, adult members of  
27 the applicant's or licensee's household, and other persons in the

1 home who are directly responsible for the care and welfare of  
2 children, for the purpose of determining the suitability of the  
3 home for foster care. The court shall disclose this information to  
4 the applicant or licensee.

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

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

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

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

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

20 (r) A child care regulatory agency.

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

23 (t) A local friend of the court office. ~~subject to the~~  
24 ~~provisions of subsection (3) and sections 5 and 13, if there is a~~  
25 ~~compelling need for child protective services records or~~  
26 ~~information to determine custody or parenting time issues regarding~~  
27 ~~a child. A local friend of the court office investigator,~~

~~1 caseworker, or administrator directly involved in the custody  
2 investigation shall notify the appropriate department or child  
3 protective services local or central office that a child custody or  
4 parenting time investigation has been initiated involving a family  
5 and shall request in writing child protective services records and  
6 information that are pertinent to that investigation. Upon receipt  
7 of this notification and request, the local office of child  
8 protective services supervisor shall review child protective  
9 services information in the local office's possession to determine  
10 if there are child protective services records or information that  
11 is pertinent to that investigation. Within 14 days after receipt of  
12 a request made under this subdivision, the child protective  
13 services local office shall release the pertinent child protective  
14 services records and information to the investigator, caseworker,  
15 or administrator directly involved in the child custody or  
16 parenting time investigation. Child protective services is further  
17 authorized to report to the local friend of the court office any  
18 situation in which a parent, more than 3 times within 1 year or on  
19 5 cumulative reports over several years, made unfounded reports to  
20 child protective services regarding alleged child abuse or neglect  
21 of his or her child.~~

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

27 (4) If the department classifies a report of suspected child

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

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

20 (6) If the department refuses a request for amendment or  
21 expunction under subsection (5), or fails to act within 30 days  
22 after receiving the request, the department shall hold a hearing to  
23 determine by a preponderance of the evidence whether the report or  
24 record in whole or in part should be amended or expunged from the  
25 central registry on the grounds that the report or record is not  
26 relevant or accurate evidence of abuse or neglect. The hearing  
27 shall be held before a hearing officer appointed by the department

1 and shall be conducted as prescribed by the administrative  
2 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

3 (7) If the investigation of a report conducted under this act  
4 fails to disclose evidence of abuse or neglect, the information  
5 identifying the subject of the report shall be expunged from the  
6 central registry. If evidence of abuse or neglect exists, the  
7 department shall maintain the information in the central registry  
8 until the department receives reliable information that the  
9 perpetrator of the abuse or neglect is dead.

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

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

26 (10) An agency obtaining a confidential record under  
27 subsection (2)(a) may seek an order from the court having

1 jurisdiction over the child or from the family division of the  
2 Ingham county circuit court that allows the agency to disseminate  
3 confidential child protective services or foster care information  
4 to pursue sanctions for alleged dereliction, malfeasance, or  
5 misfeasance of duty against an employee of the agency, to a  
6 recognized labor union representative of the employee's bargaining  
7 unit, or to an arbitrator or an administrative law judge who  
8 conducts a hearing involving the employee's alleged dereliction,  
9 malfeasance, or misfeasance of duty to be used solely in connection  
10 with that hearing. Information released under this subsection shall  
11 be released in a manner that maintains the greatest degree of  
12 confidentiality while allowing review of employee performance.

13       Sec. 8. (1) Within 24 hours after receiving a report made  
14 under this act, the department shall refer the report to the  
15 prosecuting attorney and the local law enforcement agency if the  
16 report meets the requirements of subsection (3)(a), (b), or (c) or  
17 section 3(6) or (9) or shall commence an investigation of the child  
18 suspected of being abused or neglected. Within 24 hours after  
19 receiving a report whether from the reporting person or from the  
20 department under subsection (3)(a), (b), or (c) or section 3(6) or  
21 (9), the local law enforcement agency shall refer the report to the  
22 department if the report meets the requirements of section 3(7) or  
23 shall commence an investigation of the child suspected of being  
24 abused or neglected or exposed to or who has had contact with  
25 methamphetamine production. If the child suspected of being abused  
26 or exposed to or who has had contact with methamphetamine  
27 production is not in the physical custody of the parent or legal



1 guardian and informing the parent or legal guardian would not  
2 endanger the child's health or welfare, the agency or the  
3 department shall inform the child's parent or legal guardian of the  
4 investigation as soon as the agency or the department discovers the  
5 identity of the child's parent or legal guardian.

6 (2) In the course of its investigation, the department shall  
7 determine if the child is abused or neglected. The department shall  
8 cooperate with law enforcement officials, courts of competent  
9 jurisdiction, and appropriate state agencies providing human  
10 services in relation to preventing, identifying, and treating child  
11 abuse and neglect; shall provide, enlist, and coordinate the  
12 necessary services, directly or through the purchase of services  
13 from other agencies and professions; and shall take necessary  
14 action to prevent further abuses, to safeguard and enhance the  
15 child's welfare, and to preserve family life where possible. In the  
16 course of an investigation, at the time that a department  
17 investigator contacts an individual about whom a report has been  
18 made under this act or contacts an individual responsible for the  
19 health or welfare of a child about whom a report has been made  
20 under this act, the department investigator shall advise that  
21 individual of the department investigator's name, whom the  
22 department investigator represents, and the specific complaints or  
23 allegations made against the individual. The department shall  
24 ensure that its policies, procedures, and administrative rules  
25 ensure compliance with the provisions of this act.

26 (3) In conducting its investigation, the department shall seek  
27 the assistance of and cooperate with law enforcement officials

1 within 24 hours after becoming aware that 1 or more of the  
2 following conditions exist:

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

5 (b) The child is the victim of suspected sexual abuse or  
6 sexual exploitation.

7 (c) Abuse or neglect resulting in severe physical injury to  
8 the child. For purposes of this subdivision and section 17, "severe  
9 physical injury" means an injury to the child that requires medical  
10 treatment or hospitalization and that seriously impairs the child's  
11 health or physical well-being.

12 (d) Law enforcement intervention is necessary for the  
13 protection of the child, a department employee, or another person  
14 involved in the investigation.

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

17 (f) The child has been exposed to or had contact with  
18 methamphetamine production.

19 (4) Law enforcement officials shall cooperate with the  
20 department in conducting investigations under subsections (1) and  
21 (3) and shall comply with sections 5 and 7. The department and law  
22 enforcement officials shall conduct investigations in compliance  
23 with the protocols adopted and implemented as required by  
24 subsection (6).

25 (5) Involvement of law enforcement officials under this  
26 section does not relieve or prevent the department from proceeding  
27 with its investigation or treatment if there is reasonable cause to

1 suspect that the child abuse or neglect was committed by a person  
2 responsible for the child's health or welfare.

3 (6) In each county, the prosecuting attorney and the  
4 department shall develop and establish procedures for involving law  
5 enforcement officials as provided in this section. In each county,  
6 the prosecuting attorney and the department shall adopt and  
7 implement standard child abuse and neglect investigation and  
8 interview protocols using as a model the protocols developed by the  
9 governor's task force on children's justice as published in FIA  
10 Publication 794 (revised 8-98) and FIA Publication 779 (8-98), or  
11 an updated version of those publications.

12 (7) If there is reasonable cause to suspect that a child in  
13 the care of or under the control of a public or private agency,  
14 institution, or facility is an abused or neglected child, the  
15 agency, institution, or facility shall be investigated by an agency  
16 administratively independent of the agency, institution, or  
17 facility being investigated. If the investigation produces evidence  
18 of a violation of section 145c or sections 520b to 520g of the  
19 Michigan penal code, 1931 PA 328, MCL 750.145c and 750.520b to  
20 750.520g, the investigating agency shall transmit a copy of the  
21 results of the investigation to the prosecuting attorney of the  
22 county in which the agency, institution, or facility is located.

23 (8) A school or other institution shall cooperate with the  
24 department during an investigation of a report of child abuse or  
25 neglect. Cooperation includes allowing access to the child without  
26 parental consent if access is determined by the department to be  
27 necessary to complete the investigation or to prevent abuse or

1 neglect of the child. The department shall notify the person  
2 responsible for the child's health or welfare about the  
3 department's contact with the child at the time or as soon  
4 afterward as the person can be reached. The department may delay  
5 the notice if the notice would compromise the safety of the child  
6 or child's siblings or the integrity of the investigation, but only  
7 for the time 1 of those conditions exists.

8 (9) If the department has contact with a child in a school,  
9 all of the following apply:

10 (a) Before contact with the child, the department investigator  
11 shall review with the designated school staff person the  
12 department's responsibilities under this act and the investigation  
13 procedure.

14 (b) After contact with the child, the department investigator  
15 shall meet with the designated school staff person and the child  
16 about the response the department will take as a result of contact  
17 with the child. The department may also meet with the designated  
18 school staff person without the child present and share additional  
19 information the investigator determines may be shared subject to  
20 the confidentiality provisions of this act.

21 (c) Lack of cooperation by the school does not relieve or  
22 prevent the department from proceeding with its responsibilities  
23 under this act.

24 (10) A child shall not be subjected to a search at a school  
25 that requires the child to remove his or her clothing to expose his  
26 buttocks or genitalia or her breasts, buttocks, or genitalia unless  
27 the department has obtained an order from a court of competent

1 jurisdiction permitting such a search. If the access occurs within  
2 a hospital, the investigation shall be conducted so as not to  
3 interfere with the medical treatment of the child or other  
4 patients.

5 (11) The department shall enter each report made under this  
6 act that is the subject of a field investigation into the CPSI  
7 system. The department shall maintain a report entered on the CPSI  
8 system as required by this subsection until the child about whom  
9 the investigation is made is 18 years old or until 10 years after  
10 the investigation is commenced, whichever is later, or, if the case  
11 is classified as a central registry case, until the department  
12 receives reliable information that the perpetrator of the abuse or  
13 neglect is dead. Unless made public as specified information  
14 released under section 7d, a report that is maintained on the CPSI  
15 system is confidential and is not subject to the disclosure  
16 requirements of the freedom of information act, 1976 PA 442, MCL  
17 15.231 to 15.246.

18 (12) After completing a field investigation and based on its  
19 results, the department shall determine in which single category,  
20 prescribed by section 8d, to classify the allegation of child abuse  
21 or neglect.

22 (13) Except as provided in subsection (14), upon completion of  
23 the investigation by the local law enforcement agency or the  
24 department, the law enforcement agency or department may inform the  
25 person who made the report as to the disposition of the report.

26 (14) If the person who made the report is mandated to report  
27 under section 3, upon completion of the investigation by the

1 department, the department shall inform the person in writing as to  
2 the disposition of the case and shall include in the information at  
3 least all of the following:

4 (a) What determination the department made under subsection  
5 (12) and the rationale for that decision.

6 (b) Whether legal action was commenced and, if so, the nature  
7 of that action.

8 (c) Notification that the information being conveyed is  
9 confidential.

10 (15) Information sent under subsection (14) shall not include  
11 personally identifying information for a person named in a report  
12 or record made under this act.

13 (16) Unless section 5 of chapter XII of the probate code of  
14 1939, 1939 PA 288, MCL 712.5, requires a physician to report to the  
15 department, the surrender of a newborn in compliance with chapter  
16 XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20,  
17 is not reasonable cause to suspect child abuse or neglect and is  
18 not subject to the section 3 reporting requirement. This subsection  
19 does not apply to circumstances that arise on or after the date  
20 that chapter XII of the probate code of 1939, 1939 PA 288, MCL  
21 712.1 to 712.20, is repealed. This subsection applies to a newborn  
22 whose birth is described in the born alive infant protection act,  
23 2002 PA 687, MCL 333.1071 to 333.1073, and who is considered to be  
24 a newborn surrendered under the safe delivery of newborns law as  
25 provided in section 3 of chapter XII of the probate code of 1939,  
26 1939 PA 288, MCL 712.3.

27 (17) All department employees involved in investigating child

1 abuse or child neglect cases shall be trained in the legal duties  
2 to protect the state and federal constitutional and statutory  
3 rights of children and families from the initial contact of an  
4 investigation through the time services are provided.

5 (18) THE DEPARTMENT SHALL DETERMINE WHETHER THERE IS AN OPEN  
6 FRIEND OF THE COURT CASE REGARDING A CHILD WHO IS SUSPECTED OF  
7 BEING ABUSED OR NEGLECTED. IF THE DEPARTMENT DETERMINES THAT THERE  
8 IS AN OPEN FRIEND OF THE COURT CASE, THE DEPARTMENT SHALL NOTIFY  
9 THE OFFICE OF THE FRIEND OF THE COURT IN THE COUNTY IN WHICH THE  
10 FRIEND OF THE COURT CASE IS OPEN THAT THERE IS AN INVESTIGATION  
11 BEING CONDUCTED UNDER THIS ACT REGARDING THAT CHILD. ALSO, IF THE  
12 DEPARTMENT IS AWARE OF AN OPEN FRIEND OF THE COURT CASE INVOLVING A  
13 CHILD WHO HAS BEEN SUSPECTED OF BEING ABUSED OR NEGLECTED, THE  
14 DEPARTMENT SHALL REPORT TO THE LOCAL FRIEND OF THE COURT OFFICE  
15 WHEN THERE IS A CHANGE IN THAT CHILD'S PLACEMENT.

16 (19) CHILD PROTECTIVE SERVICES MAY REPORT TO THE LOCAL FRIEND  
17 OF THE COURT OFFICE ANY SITUATION IN WHICH A PARENT, MORE THAN 3  
18 TIMES WITHIN 1 YEAR OR ON 5 CUMULATIVE REPORTS OVER SEVERAL YEARS,  
19 MADE UNFOUNDED REPORTS TO CHILD PROTECTIVE SERVICES REGARDING  
20 ALLEGED CHILD ABUSE OR NEGLECT OF HIS OR HER CHILD.

21 (20) THE DEPARTMENT SHALL NOTIFY PARENTS OF A CHILD WHO IS  
22 SUSPECTED OF BEING ABUSED OR NEGLECTED OF THEIR OPTION TO REQUEST A  
23 CHANGE IN THAT CHILD'S PLACEMENT.

24 Enacting section 1. This amendatory act takes effect October  
25 1, 2008.