

HOUSE BILL No. 4386

March 3, 2011, Introduced by Reps. Haines, Kurtz and Hooker and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending section 7 (MCL 722.627), as amended by 2008 PA 300.

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. **IN THE EVENT OF A CHILD'S DEATH,**
23 **A COURT THAT HAD JURISDICTION OVER THAT CHILD UNDER SECTION 2(B) OF**
24 **CHAPTER XIIA OF THE PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.2.**

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

27 (i) A person, agency, or organization engaged in a bona fide

1 research or evaluation project. The person, agency, or organization
2 shall not release information identifying a person named in the
3 report or record unless that person's written consent is obtained.
4 The person, agency, or organization shall not conduct a personal
5 interview with a family without the family's prior consent and
6 shall not disclose information that would identify the child or the
7 child's family or other identifying information. The department
8 director may authorize the release of information to a person,
9 agency, or organization described in this subdivision if the
10 release contributes to the purposes of this act and the person,
11 agency, or organization has appropriate controls to maintain the
12 confidentiality of personally identifying information for a person
13 named in a report 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, MCL
17 722.111 to 722.128, for the purpose of investigating an applicant
18 for adoption, a foster care applicant or licensee or an employee of
19 a foster care applicant or licensee, an adult member of an
20 applicant's or licensee's household, or other persons in a foster
21 care or adoptive home who are directly responsible for the care and
22 welfare of children, to determine suitability of a home for
23 adoption or foster care. The child placing agency shall disclose
24 the information to a foster care applicant or licensee under 1973
25 PA 116, MCL 722.111 to 722.128, or to an applicant for adoption.

26 (l) Family division of circuit court staff authorized by the
27 court to investigate foster care applicants and licensees,

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

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

10 (n) The children's ombudsman appointed under the children's
11 ombudsman act, 1994 PA 204, MCL 722.921 to 722.932.

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

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

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

22 (r) A child care regulatory agency.

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

25 (t) A local friend of the court office.

26 (3) Subject to subsection (9), a person or entity to whom
27 information described in subsection (2) is disclosed shall make the

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

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

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

24 (6) If the department refuses a request for amendment or
25 expunction under subsection (5), or fails to act within 30 days
26 after receiving the request, the department shall hold a hearing to
27 determine by a preponderance of the evidence whether the report or

1 record in whole or in part should be amended or expunged from the
2 central registry on the grounds that the report or record is not
3 relevant or accurate evidence of abuse or neglect. The hearing
4 shall be held before a hearing officer appointed by the department
5 and shall be conducted as prescribed by the administrative
6 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

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

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

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

1 subject to the freedom of information act, 1976 PA 442, MCL 15.231
2 to 15.246.

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