

HOUSE BILL No. 5198

December 12, 2013, Introduced by Reps. McCready, Kurtz, Haines, Crawford, MacGregor, Kowall and Kesto 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 2011 PA 70.

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

1 agency or foster care agency prosecuting a disciplinary action
2 against its own employee involving child protective services or
3 foster records.

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 protective
9 custody when the person is confronted with a child whom the person
10 reasonably suspects may be abused or neglected and the confidential
11 record is necessary to determine whether to place the child in
12 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 subject
16 of a report or record under this act, or who is responsible for the
17 child's health or welfare.

18 (f) A person named in the report or record as a perpetrator or
19 alleged perpetrator of the child abuse or neglect or a victim who
20 is an adult at the time of the request, if the identity of the
21 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, ~~—In—~~**OR IN** the event of a child's
24 death, a court that had jurisdiction over that child under section
25 2(b) of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL
26 712A.2.

27 (h) A grand jury that determines the information is necessary

1 to conduct the grand jury's official business.

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

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

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

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

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

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

14 (o) A child fatality review team established under section 7b
15 and authorized under that section to investigate and review a child
16 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 the
19 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 is limited to information the
22 department determines is necessary for the panel to carry out its
23 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 (t) A local friend of the court office.

1 (U) A DEPARTMENT EMPLOYEE ACTIVELY REPRESENTING HIMSELF OR
2 HERSELF IN A DISCIPLINARY ACTION, A LABOR UNION REPRESENTATIVE WHO
3 IS ACTIVELY REPRESENTING A DEPARTMENT EMPLOYEE IN A DISCIPLINARY
4 ACTION, OR AN ARBITRATOR OR ADMINISTRATIVE LAW JUDGE CONDUCTING A
5 HEARING INVOLVING A DEPARTMENT EMPLOYEE'S DERELICTION, MALFEASANCE,
6 OR MISFEASANCE OF DUTY, FOR USE SOLELY IN CONNECTION WITH THAT
7 ACTION OR HEARING. INFORMATION DISCLOSED UNDER THIS SUBDIVISION
8 SHALL BE RETURNED NOT LATER THAN 10 DAYS AFTER THE CONCLUSION OF
9 THE ACTION OR HEARING. A RECIPIENT SHALL NOT RECEIVE FURTHER
10 DISCLOSURES UNDER THIS SUBDIVISION WHILE HE OR SHE RETAINS
11 DISCLOSED INFORMATION BEYOND THE DEADLINE SPECIFIED FOR RETURN.

12 (3) Subject to subsection (9), a person or entity to whom
13 information described in subsection (2) is disclosed shall make the
14 information available only to a person or entity described in
15 subsection (2). This subsection does not require a court proceeding
16 to be closed that otherwise would be open to the public.

17 (4) If the department classifies a report of suspected child
18 abuse or neglect as a central registry case, the department shall
19 maintain a record in the central registry and, within 30 days after
20 the classification, shall notify in writing each person who is
21 named in the record as a perpetrator of the child abuse or neglect.
22 The notice shall set forth the person's right to request expunction
23 of the record and the right to a hearing if the department refuses
24 the request. The notice shall state that the record may be released
25 under section 7d. The notice shall not identify the person
26 reporting the suspected child abuse or neglect.

27 (5) A person who is the subject of a report or record made

1 under this act may request the department to amend an inaccurate
2 report or record from the central registry and local office file. A
3 person who is the subject of a report or record made under this act
4 may request the department to expunge from the central registry a
5 report or record in which no relevant and accurate evidence of
6 abuse or neglect is found to exist. A report or record filed in a
7 local office file is not subject to expunction except as the
8 department authorizes, if considered in the best interest of the
9 child.

10 (6) If the department refuses a request for amendment or
11 expunction under subsection (5), or fails to act within 30 days
12 after receiving the request, the department shall hold a hearing to
13 determine by a preponderance of the evidence whether the report or
14 record in whole or in part should be amended or expunged from the
15 central registry on the grounds that the report or record is not
16 relevant or accurate evidence of abuse or neglect. The hearing
17 shall be held before a hearing officer appointed by the department
18 and shall be conducted as prescribed by the administrative
19 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

20 (7) If the investigation of a report conducted under this act
21 fails to disclose evidence of abuse or neglect, the information
22 identifying the subject of the report shall be expunged from the
23 central registry. If evidence of abuse or neglect exists, the
24 department shall maintain the information in the central registry
25 until the department receives reliable information that the
26 perpetrator of the abuse or neglect is dead.

27 (8) In releasing information under this act, the department

1 shall not include a report compiled by a police agency or other law
2 enforcement agency related to an ongoing investigation of suspected
3 child abuse or neglect. This subsection does not ~~prevent~~ **PROHIBIT**
4 the department from releasing reports of convictions of crimes
5 related to child abuse or neglect.

6 (9) A member or staff member of a citizen review panel shall
7 not disclose identifying information about a specific child
8 protection case to an individual, partnership, corporation,
9 association, governmental entity, or other legal entity. A member
10 or staff member of a citizen review panel is a member of a board,
11 council, commission, or statutorily created task force of a
12 governmental agency for the purposes of section 7 of 1964 PA 170,
13 MCL 691.1407. Information obtained by a citizen review panel is not
14 subject to the freedom of information act, 1976 PA 442, MCL 15.231
15 to 15.246.

16 ~~—— (10) An agency obtaining a confidential record under~~
17 ~~subsection (2) (a) may seek an order from the court having~~
18 ~~jurisdiction over the child or from the family division of the~~
19 ~~Ingham county circuit court that allows the agency to disseminate~~
20 ~~confidential child protective services or foster care information~~
21 ~~to pursue sanctions for alleged dereliction, malfeasance, or~~
22 ~~misfeasance of duty against an employee of the agency, to a~~
23 ~~recognized labor union representative of the employee's bargaining~~
24 ~~unit, or to an arbitrator or an administrative law judge who~~
25 ~~conducts a hearing involving the employee's alleged dereliction,~~
26 ~~malfeasance, or misfeasance of duty to be used solely in connection~~
27 ~~with that hearing. Information released under this subsection shall~~

1 ~~be released in a manner that maintains the greatest degree of~~
2 ~~confidentiality while allowing review of employee performance.~~