

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1043

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending section 7 (MCL 722.627), as amended by 2016 PA 35.

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 child neglect or a legally mandated public or private child
10 protective agency or foster care agency prosecuting a disciplinary

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

3 (b) A police **AGENCY** or other law enforcement agency
4 investigating a report of known or suspected child abuse or child
5 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 child neglect or a victim
20 who 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 for the purposes of determining the suitability of
23 a person as a guardian of a minor or that otherwise determines that
24 the information is necessary to decide an issue before the court,
25 or in the event of a child's death, a court that had jurisdiction
26 over that child under section 2(b) of chapter XIIA of the probate
27 code of 1939, 1939 PA 288, MCL 712A.2.

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

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

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

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

1 PA 116, MCL 722.111 to 722.128, or to an applicant for adoption.

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

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

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

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

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

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

25 (r) A child care regulatory agency.

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

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

2 (u) A department employee actively representing himself or
3 herself in a disciplinary action, a labor union representative who
4 is actively representing a department employee in a disciplinary
5 action, or an arbitrator or administrative law judge conducting a
6 hearing involving a department employee's dereliction, malfeasance,
7 or misfeasance of duty, for use solely in connection with that
8 action or hearing. Information disclosed under this subdivision
9 shall be returned not later than 10 days after the conclusion of
10 the action or hearing. A recipient shall not receive further
11 disclosures under this subdivision while he or she retains
12 disclosed information beyond the deadline specified for return.

13 (v) A federal or state governmental agency that may, by law,
14 conduct an audit or similar review of the department's activities
15 under this act.

16 **(W) A CHILDREN'S ADVOCACY CENTER IN THE COURSE OF PROVIDING**
17 **SERVICES TO A CHILD ALLEGED TO HAVE BEEN THE VICTIM OF CHILD ABUSE**
18 **OR CHILD NEGLECT OR TO THAT CHILD'S FAMILY.**

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

24 (4) If the department classifies a report of suspected child
25 abuse or child neglect as a central registry case, the department
26 shall maintain a record in the central registry and, within 30 days
27 after the classification, shall notify in writing each person who

1 is named in the record as a perpetrator of the child abuse or child
2 neglect. The notice shall be sent by registered or certified mail,
3 return receipt requested, and delivery restricted to the addressee.
4 The notice shall set forth the person's right to request expunction
5 of the record and the right to a hearing if the department refuses
6 the request. The notice shall state that the record may be released
7 under section 7d. The notice shall not identify the person
8 reporting the suspected child abuse or child neglect.

9 (5) A person who is the subject of a report or record made
10 under this act may request the department to amend an inaccurate
11 report or record from the central registry and local office file. A
12 person who is the subject of a report or record made under this act
13 may request the department to expunge from the central registry a
14 report or record by requesting a hearing under subsection (6). A
15 report or record filed in a local office file is not subject to
16 expunction except as the department authorizes, if considered in
17 the best interest of the child.

18 (6) A person who is the subject of a report or record made
19 under this act may, within 180 days from the date of service of
20 notice of the right to a hearing, request the department hold a
21 hearing to review the request for amendment or expunction. If the
22 hearing request is made within 180 days of the notice, the
23 department shall hold a hearing to determine by a preponderance of
24 the evidence whether the report or record in whole or in part
25 should be amended or expunged from the central registry. The
26 hearing shall be held before a hearing officer appointed by the
27 department and shall be conducted as prescribed by the

1 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
2 24.328. The department may, for good cause, hold a hearing under
3 this subsection if the department determines that the person who is
4 the subject of the report or record submitted the request for a
5 hearing within 60 days after the 180-day notice period expired.

6 (7) If the investigation of a report conducted under this act
7 does not show child abuse or child neglect by a preponderance of
8 evidence, or if a court dismisses a petition based on the merits of
9 the petition filed under section 2(b) of chapter XIIA of the
10 probate code of 1939, 1939 PA 288, MCL 712A.2, because the
11 petitioner has failed to establish that the child comes within the
12 jurisdiction of the court, the information identifying the subject
13 of the report shall be expunged from the central registry. If a
14 preponderance of evidence of **CHILD** abuse or **CHILD** neglect exists,
15 or if a court takes jurisdiction of the child under section 2(b) of
16 chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2,
17 the department shall maintain the information in the central
18 registry as follows:

19 (a) Except as provided in subdivision (b), for a person listed
20 as a perpetrator in category I or II under section 8d, either as a
21 result of an investigation or as a result of the reclassification
22 of a case, the department shall maintain the information in the
23 central registry for 10 years.

24 (b) For a person listed as a perpetrator in category I or II
25 under section 8d that involved any of the circumstances listed in
26 section 17(1) or 18(1), the department shall maintain the
27 information in the central registry until the department receives

1 reliable information that the perpetrator of the **CHILD** abuse or
2 **CHILD** neglect is dead. For the purpose of this subdivision,
3 "reliable information" includes, but is not limited to, information
4 obtained using the United States social security death index
5 database.

6 (c) For a person who is the subject of a report or record made
7 under this act before March 31, 2015 the following ~~applies~~**APPLY**:

8 (i) Except as provided in subparagraph (ii), for a person
9 listed as perpetrator in category I or II under section 8d either
10 as a result of an investigation or as a result of the
11 reclassification of a case, the department may remove the
12 information for a person described in this subparagraph after 10
13 years without a request for amendment or expunction.

14 (ii) For a person listed as a perpetrator in category I or II
15 under section 8d that involved any of the circumstances listed in
16 section 17(1) or 18(1), the department shall maintain the
17 information in the central registry until the department receives
18 reliable information that the perpetrator of the child abuse or
19 child neglect is dead. For the purpose of this subparagraph,
20 "reliable information" includes, but is not limited to, information
21 obtained using the United States social security death index
22 database.

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

1 to child abuse or child neglect.

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

12 (10) Documents, reports, or records authored by or obtained
13 from another agency or organization shall not be released or open
14 for inspection under subsection (2) unless required by other state
15 or federal law, in response to an order issued by a judge,
16 magistrate, or other authorized judicial officer, or unless the
17 documents, reports, or records are requested for a child abuse or
18 child neglect case or for a criminal investigation of a child abuse
19 or child neglect case conducted by law enforcement.

20 (11) **NOTWITHSTANDING SUBSECTION (2) AND SECTION 5, INFORMATION**
21 **OR RECORDS IN THE POSSESSION OF THE DEPARTMENT OR THE DEPARTMENT OF**
22 **LICENSING AND REGULATORY AFFAIRS MAY BE SHARED TO THE EXTENT**
23 **NECESSARY FOR THE PROPER FUNCTIONING OF THE DEPARTMENT OR THE**
24 **DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS IN ADMINISTERING**
25 **CHILD WELFARE OR CHILD CARE FACILITY LICENSING UNDER THIS ACT OR IN**
26 **AN INVESTIGATION CONDUCTED UNDER SECTION 43B OF THE SOCIAL WELFARE**
27 **ACT, 1939 PA 280, MCL 400.43B. INFORMATION OR RECORDS SHARED UNDER**

1 THIS SUBSECTION SHALL NOT BE RELEASED BY EITHER THE DEPARTMENT OR
2 THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS UNLESS OTHERWISE
3 PERMITTED UNDER THIS ACT OR OTHER STATE OR FEDERAL LAW. NEITHER THE
4 DEPARTMENT NOR THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
5 SHALL RELEASE OR OPEN FOR INSPECTION ANY DOCUMENT, REPORT, OR
6 RECORD AUTHORED BY OR OBTAINED FROM ANOTHER AGENCY OR ORGANIZATION
7 UNLESS 1 OF THE CONDITIONS OF SUBSECTION (10) APPLIES.