

HOUSE BILL NO. 5278

August 18, 2021, Introduced by Reps. Brenda Carter, LaGrand, Hood, Stone, Tyrone Carter, Weiss, Aiyash, Hope, Witwer, O'Neal, Anthony, Kuppa, Cynthia Johnson, Bezotte, Huizenga, Rendon, Maddock, Wozniak, Meerman and Yancey 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 2018 PA 56.

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 **(1)** ~~(2)~~ Unless made public as specified information released
4 under section 7d, a written report, document, or photograph filed
5 with the department as provided in this act is a confidential

1 record available only to 1 or more of the following:

2 (a) A legally mandated public or private child protective
3 agency investigating a report of known or suspected child abuse or
4 child neglect or a legally mandated public or private child
5 protective agency or foster care agency prosecuting a disciplinary
6 action against its own employee involving child protective services
7 or foster records.

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

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

13 (d) A person legally authorized to place a child in protective
14 custody when the person is confronted with a child whom the person
15 reasonably suspects may be abused or neglected and the confidential
16 record is necessary to determine whether to place the child in
17 protective custody.

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

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

27 (g) A court for the purposes of determining the suitability of
28 a person as a **minor's** guardian ~~of a minor~~ or that otherwise
29 determines that the information is necessary to decide an issue

1 before the court, or in the event of a child's death, a court that
2 had jurisdiction over that child under section 2(b) of chapter XIIA
3 of the probate code of 1939, 1939 PA 288, MCL 712A.2.

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

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

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

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

1 **must** disclose the information to a foster care applicant or
2 licensee under 1973 PA 116, MCL 722.111 to 722.128, or to an
3 applicant for adoption.

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

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

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

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

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

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

27 (r) A child care regulatory agency.

28 (s) A foster care review board for the purpose of meeting the
29 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~~**must** be returned not later than 10 days after the conclusion
10 of the action or hearing. A recipient ~~shall~~**must** not receive
11 further 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 (x) A tribal representative, agency, or organization,
20 including a multidisciplinary team, authorized by the Indian
21 child's tribe, to care for, diagnose, treat, review, evaluate, or
22 monitor active efforts regarding an Indian child, parent, or Indian
23 custodian. As used in this subdivision, "active efforts", "Indian
24 child", "Indian child's tribe", "Indian custodian", and "parent"
25 mean those terms as defined in section 3 of chapter XIIB of the
26 probate code of 1939, 1939 PA 288, MCL 712B.3.

27 **(y) A child caring institution licensed under 1973 PA 116, MCL**
28 **722.111 to 722.128, for the purpose of investigating an applicant**
29 **for employment or an employee of a child caring institution to**

1 **determine suitability of the applicant or employee for initial or**
2 **continued employment. The child caring institution must disclose**
3 **the information to the applicant or employee.**

4 (2) ~~(3)~~—Subject to subsection ~~(9)~~, ~~(4)~~, a person or entity to
5 whom information described in subsection ~~(2)~~—~~(1)~~ is disclosed shall
6 make the information available only to a person or entity described
7 in subsection ~~(2)~~—~~(1)~~. This subsection does not require a court
8 proceeding to be closed that otherwise would be open to the public.

9 ~~(4) If the department classifies a report of suspected child~~
10 ~~abuse or child neglect as a central registry case, the department~~
11 ~~shall maintain a record in the central registry and, within 30 days~~
12 ~~after the classification, shall notify in writing each person who~~
13 ~~is named in the record as a perpetrator of the child abuse or child~~
14 ~~neglect. The notice shall be sent by registered or certified mail,~~
15 ~~return receipt requested, and delivery restricted to the addressee.~~
16 ~~The notice shall set forth the person's right to request expunction~~
17 ~~of the record and the right to a hearing if the department refuses~~
18 ~~the request. The notice shall state that the record may be released~~
19 ~~under section 7d. The notice shall not identify the person~~
20 ~~reporting the suspected child abuse or child neglect.~~

21 ~~(5) A person who is the subject of a report or record made~~
22 ~~under this act may request the department to amend an inaccurate~~
23 ~~report or record from the central registry and local office file. A~~
24 ~~person who is the subject of a report or record made under this act~~
25 ~~may request the department to expunge from the central registry a~~
26 ~~report or record by requesting a hearing under subsection (6). A~~
27 ~~report or record filed in a local office file is not subject to~~
28 ~~expunction except as the department authorizes, if considered in~~
29 ~~the best interest of the child.~~

1 ~~(6) A person who is the subject of a report or record made~~
2 ~~under this act may, within 180 days from the date of service of~~
3 ~~notice of the right to a hearing, request the department hold a~~
4 ~~hearing to review the request for amendment or expunction. If the~~
5 ~~hearing request is made within 180 days of the notice, the~~
6 ~~department shall hold a hearing to determine by a preponderance of~~
7 ~~the evidence whether the report or record in whole or in part~~
8 ~~should be amended or expunged from the central registry. The~~
9 ~~hearing shall be held before a hearing officer appointed by the~~
10 ~~department and shall be conducted as prescribed by the~~
11 ~~administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to~~
12 ~~24.328. The department may, for good cause, hold a hearing under~~
13 ~~this subsection if the department determines that the person who is~~
14 ~~the subject of the report or record submitted the request for a~~
15 ~~hearing within 60 days after the 180 day notice period expired.~~

16 ~~(7) If the investigation of a report conducted under this act~~
17 ~~does not show child abuse or child neglect by a preponderance of~~
18 ~~evidence, or if a court dismisses a petition based on the merits of~~
19 ~~the petition filed under section 2(b) of chapter XIIA of the~~
20 ~~probate code of 1939, 1939 PA 288, MCL 712A.2, because the~~
21 ~~petitioner has failed to establish that the child comes within the~~
22 ~~jurisdiction of the court, the information identifying the subject~~
23 ~~of the report shall be expunged from the central registry. If a~~
24 ~~preponderance of evidence of child abuse or child neglect exists,~~
25 ~~or if a court takes jurisdiction of the child under section 2(b) of~~
26 ~~chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2,~~
27 ~~the department shall maintain the information in the central~~
28 ~~registry as follows:~~

29 ~~(a) Except as provided in subdivision (b), for a person listed~~

1 ~~as a perpetrator in category I or II under section 8d, either as a~~
2 ~~result of an investigation or as a result of the reclassification~~
3 ~~of a case, the department shall maintain the information in the~~
4 ~~central registry for 10 years.~~

5 ~~(b) For a person listed as a perpetrator in category I or II~~
6 ~~under section 8d that involved any of the circumstances listed in~~
7 ~~section 17(1) or 18(1), the department shall maintain the~~
8 ~~information in the central registry until the department receives~~
9 ~~reliable information that the perpetrator of the child abuse or~~
10 ~~child neglect is dead. For the purpose of this subdivision,~~
11 ~~"reliable information" includes, but is not limited to, information~~
12 ~~obtained using the United States Social Security death index~~
13 ~~database.~~

14 ~~(c) For a person who is the subject of a report or record made~~
15 ~~under this act before March 31, 2015 the following apply:~~

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

22 ~~(ii) For a person listed as a perpetrator in category I or II~~
23 ~~under section 8d that involved any of the circumstances listed in~~
24 ~~section 17(1) or 18(1), the department shall maintain the~~
25 ~~information in the central registry until the department receives~~
26 ~~reliable information that the perpetrator of the child abuse or~~
27 ~~child neglect is dead. For the purpose of this subparagraph,~~
28 ~~"reliable information" includes, but is not limited to, information~~
29 ~~obtained using the United States Social Security death index~~

1 ~~database.~~

2 **(3)** ~~(8)~~—In releasing information under this act, the
3 department shall not include a report compiled by a police agency
4 or other law enforcement agency related to an ongoing investigation
5 of suspected child abuse or child neglect. This subsection does not
6 prohibit the department from releasing reports of convictions of
7 crimes related to child abuse or child neglect.

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

18 **(5)** ~~(10)~~—Documents, reports, or records authored by or
19 obtained from another agency or organization shall not be released
20 or open for inspection under subsection ~~(2)~~ **(1)** unless required by
21 other state or federal law, in response to an order issued by a
22 judge, magistrate, or other authorized judicial officer, or unless
23 the documents, reports, or records are requested for a child abuse
24 or child neglect case or for a criminal investigation of a child
25 abuse or child neglect case conducted by law enforcement.

26 **(6)** ~~(11)~~—Notwithstanding subsection ~~(2)~~ and section ~~5~~, **(1)**,
27 information or records in the possession of the department or the
28 department of licensing and regulatory affairs may be shared to the
29 extent necessary for the proper functioning of the department or

1 the department of licensing and regulatory affairs in administering
 2 child welfare or child care ~~facility~~**organization** licensing under
 3 ~~this act~~**1973 PA 116, MCL 722.111 to 722.128**, or in an
 4 investigation conducted under section 43b of the social welfare
 5 act, 1939 PA 280, MCL 400.43b. Information or records shared under
 6 this subsection shall not be released by either the department or
 7 the department of licensing and regulatory affairs unless otherwise
 8 permitted under this act or other state or federal law. Neither the
 9 department nor the department of licensing and regulatory affairs
 10 shall release or open for inspection any document, report, or
 11 record authored by or obtained from another agency or organization
 12 unless 1 of the conditions of subsection ~~(10)~~**(5)** applies.

13 Enacting section 1. This amendatory act takes effect 180 days
 14 after the date it is enacted into law.

15 Enacting section 2. This amendatory act does not take effect
 16 unless all of the following bills of the 101st Legislature are
 17 enacted into law:

18 (a) Senate Bill No. ____ or House Bill No. 5276 (request no.
 19 00901'21).

20 (b) Senate Bill No. ____ or House Bill No. 5277 (request no.
 21 03590'21).

22 (c) Senate Bill No. ____ or House Bill No. 5275 (request no.
 23 03592'21).

24 (d) Senate Bill No. ____ or House Bill No. 5274 (request no.
 25 03593'21).