

SENATE BILL NO. 436

June 28, 2023, Introduced by Senators DAMOOSE, CHANG, IRWIN, VICTORY and SANTANA and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1975 PA 238, entitled "Child protection law," by amending sections 7, 7b, and 7k (MCL 722.627, 722.627b, and 722.627k), section 7 as amended by 2022 PA 68, section 7b as amended by 2011 PA 89, and section 7k as added by 2011 PA 67.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

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

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

26 (g) A court for the purposes of determining the suitability of
27 a person as a minor's guardian or that otherwise determines that
28 the information is necessary to decide an issue before the court,
29 or in the event of a child's death, a court that had jurisdiction

1 over that child under section 2(b) of chapter XIIA of the probate
2 code of 1939, 1939 PA 288, MCL 712A.2.

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

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

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

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

1 116, 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 any other person in
6 the home who is 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 must 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~~ **child advocate** appointed under
14 the ~~children's ombudsman~~ **office of the child advocate** act, 1994 PA
15 204, MCL 722.921 to 722.932.

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

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

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

26 (r) A child care regulatory agency.

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

29 (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 must be returned not later than 10 days after the conclusion of the
9 action or hearing. A recipient must not receive further disclosures
10 under this subdivision while he or she retains disclosed
11 information beyond the deadline specified for return.

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

15 (w) A children's advocacy center in the course of providing
16 services to a child alleged to have been the victim of child abuse
17 or child neglect or to that child's family.

18 (x) A tribal representative, agency, or organization,
19 including a multidisciplinary team, authorized by the Indian
20 child's tribe, to care for, diagnose, treat, review, evaluate, or
21 monitor active efforts regarding an Indian child, parent, or Indian
22 custodian. As used in this subdivision, "active efforts", "Indian
23 child", "Indian child's tribe", "Indian custodian", and "parent"
24 mean those terms as defined in section 3 of chapter XIIB of the
25 probate code of 1939, 1939 PA 288, MCL 712B.3.

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

1 continued employment. The child caring institution must disclose
2 the information to the applicant or employee.

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

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

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

24 (5) Documents, reports, or records authored by or obtained
25 from another agency or organization shall not be released or open
26 for inspection under subsection (1) unless required by other state
27 or federal law, in response to an order issued by a judge,
28 magistrate, or other authorized judicial officer, or unless the
29 documents, reports, or records are requested for a child abuse or

1 child neglect case or for a criminal investigation of a child abuse
2 or child neglect case conducted by law enforcement.

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

19 Sec. 7b. (1) Each county may have in place a standing child
20 fatality review team. Two or more counties may appoint a single
21 child fatality review team for those counties. The membership of a
22 child fatality review team shall consist of at least all of the
23 following:

24 (a) A county medical examiner or deputy county medical
25 examiner appointed under 1953 PA 181, MCL 52.201 to 52.216.

26 (b) A representative of a local law enforcement agency.

27 (c) A representative of the department.

28 (d) The county prosecuting attorney or a designated assistant
29 county prosecutor.

1 (e) A representative of the department of ~~community~~ health **and**
2 **human services** or a local health department.

3 (f) A representative of the local court.

4 (2) A child fatality review team established under subsection
5 (1) shall review each child fatality occurring in the county or
6 counties that established the child fatality review team.

7 (3) The department shall make available to each child fatality
8 review team established under subsection (1) professional,
9 interagency training and orientation on the review of child
10 fatalities. The department shall make available, as necessary,
11 training on specific types of child fatalities, investigation
12 techniques, and prevention initiatives.

13 (4) The department shall establish a multiagency,
14 multidisciplinary advisory committee to identify and make
15 recommendations on policy and statutory changes pertaining to child
16 fatalities and to guide statewide prevention, education, and
17 training efforts.

18 (5) The advisory committee created under subsection (4)
19 consists of the following:

20 (a) Two representatives of the department.

21 (b) Two representatives of the department of ~~community~~ health
22 **and human services**.

23 (c) One county medical examiner.

24 (d) One representative of law enforcement.

25 (e) One county prosecuting attorney.

26 (f) The ~~children's ombudsman~~ **child advocate** or his or her
27 designee.

28 (g) A representative of a state or local court.

29 (6) The citizen review panel shall review each child fatality

1 that involves allegations of child abuse or **child** neglect for each
2 child who, at the time of death or within the 12 months preceding
3 the death, was under the court's jurisdiction under section 2(b) of
4 chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

5 (7) Beginning December 31, 2012, and using the annual
6 compilation of child fatalities reported by the state registrar
7 under part 28 of the public health code, 1978 PA 368, MCL 333.2801
8 to 333.2899, and data received from the child fatality review teams
9 established under subsection (1) and the citizen review panel
10 established under subsection (6), the advisory committee
11 established under subsection (4) shall author an annual report on
12 child fatalities reviewed during the previous calendar year. The
13 advisory committee shall include in the report, at a minimum, all
14 of the following:

15 (a) The total number of child fatalities and the type or cause
16 of each child fatality.

17 (b) The number of child fatalities that occurred while the
18 child was in foster care.

19 (c) The number of cases where the child's death occurred
20 within 5 years after family preservation or family reunification.

21 (d) Trends in child fatalities.

22 (8) The advisory committee established under subsection (4)
23 shall break down the information required under subsection (7) by
24 county or by groups of counties as described in subsection (1). The
25 information contained in the report is public information. The
26 advisory committee shall not include identifying information of
27 persons named in the report. The advisory committee shall transmit
28 the final report under subsection (7) to the department by December
29 31 of each year. Not less than 30 days and not more than 60 days

1 after transmitting the report to the department, the department
2 shall ensure publication of the report and transmit a copy to the
3 governor and to the standing committees of the legislature with
4 jurisdiction over matters pertaining to child protection.

5 (9) Except as provided in subsection (11), information
6 obtained by a child fatality review team established under
7 subsection (1) is confidential and may be disclosed by the child
8 fatality review team only to the department, the ~~children's~~
9 ~~ombudsman,~~ **child advocate**, the county prosecutor's office, local
10 law enforcement, or another child fatality review team. The
11 information is not subject to the freedom of information act, 1976
12 PA 442, MCL 15.231 to 15.246.

13 (10) An individual who is a member of a child fatality review
14 team established under subsection (1) or of the advisory committee
15 established under subsection (4) is a member of a board, council,
16 commission, or statutorily created task force of a governmental
17 agency for the purposes of section 7 of 1964 PA 170, MCL 691.1407.

18 (11) The department shall establish and maintain a registry of
19 statistical information regarding children's deaths that shall be
20 accessible to the public. The registry created in this section
21 shall not disclose any identifying information and shall only
22 include statistical information covering all of the following:

23 (a) The number of children who died while under court
24 jurisdiction for child abuse or neglect regardless of placement
25 setting.

26 (b) The number of children who died as a result of child abuse
27 or neglect after a parent had 1 or more child protective services
28 complaints within the 2 years preceding the child's death and the
29 category dispositions of those complaints.

1 (c) The total number of children as identified in subdivisions
2 (a) and (b) who died in the preceding year.

3 (d) The child protective services disposition of the child
4 fatality.

5 Sec. 7k. (1) If a child dies who is under the court's
6 jurisdiction under section 2(b) of chapter XIIA of the probate code
7 of 1939, 1939 PA 288, MCL 712A.2, the department shall provide
8 notification in writing or electronically not later than 1 business
9 day to the court that had jurisdiction over the child under section
10 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL
11 712A.2, at the time of the child's death, the state senator and
12 state representative who represent the district in which that court
13 is located, and the ~~children's ombudsman~~ **child advocate**.

14 (2) The department shall notify the ~~children's ombudsman~~ **child**
15 **advocate** within 1 business day when a child dies and any of the
16 following apply:

17 (a) The child died during an active child protective services
18 investigation or an open child protective services case.

19 (b) The department received a prior child protective services
20 complaint concerning the child's caretaker.

21 (c) The child's death may have resulted from child abuse or
22 **child** neglect.

23 Enacting section 1. This amendatory act does not take effect
24 unless Senate Bill No. 432 of the 102nd Legislature is enacted into
25 law.