

HOUSE BILL No. 5999

September 12, 1990, Introduced by Rep. Hunter and referred to the Committee on Social Services and Youth.

A bill to amend sections 2 and 7 of Act No. 238 of the Public Acts of 1975, entitled as amended "Child protection law," section 2 as amended by Act No. 372 of the Public Acts of 1988 and section 7 as amended by Act No. 418 of the Public Acts of 1984, being sections 722.622 and 722.627 of the Michigan Compiled Laws; and to add section 7a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2 and 7 of Act No. 238 of the Public
2 Acts of 1975, section 2 as amended by Act No. 372 of the Public
3 Acts of 1988 and section 7 as amended by Act No. 418 of the
4 Public Acts of 1984, being sections 722.622 and 722.627 of the
5 Michigan Compiled Laws, are amended and section 7a is added to
6 read as follows:

1 Sec. 2. As used in this act:

2 (a) "Central registry" means the system or organized mode of
3 keeping a record of all reports filed with the department pursu-
4 ant to this act in which relevant and accurate evidence of child
5 abuse or neglect is found to exist and which is maintained at the
6 department.

7 (b) "Child" means a person under 18 years of age.

8 (c) "Child abuse" means harm or threatened harm by a person
9 to a child's health or welfare which occurs through nonaccidental
10 physical or mental injury; sexual abuse; sexual exploitation; or
11 maltreatment.

12 (d) "Child neglect" means harm to a child's health or wel-
13 fare by a parent, legal guardian, or person who has custodial
14 care of the child which occurs through either of the following:

15 (i) Negligent treatment, including the failure to provide
16 adequate food, clothing, shelter, or medical care.

17 (ii) Placing a child at an unreasonable risk to the child's
18 health or welfare by failure of the parent, legal guardian, or
19 person who has custodial care of the child to intervene to elimi-
20 nate that risk when that person is able to do so and has knowl-
21 edge of the risk.

22 ~~(e) "Sexual abuse" means engaging in sexual contact or~~
23 ~~sexual penetration as defined in section 520a of the Michigan~~
24 ~~penal code, Act No. 328 of the Public Acts of 1931, being section~~
25 ~~750.520a of the Michigan Compiled Laws, with a child.~~

26 ~~(f) "Sexual exploitation" includes allowing, permitting, or~~
27 ~~encouraging a child to engage in prostitution, or allowing,~~

1 ~~permitting, encouraging, or engaging in the photographing,~~
2 ~~filming, or depicting of a child engaged in a listed sexual act~~
3 ~~as defined in section 145c of Act No. 328 of the Public Acts of~~
4 ~~1931, being section 750.145c of the Michigan Compiled Laws.~~

5 ~~(g) "Relevant evidence" means evidence having a tendency to~~
6 ~~make the existence of a fact that is at issue more probable than~~
7 ~~it would be without the evidence.~~

8 (E) ~~(h)~~ "Department" means the state department of social
9 services.

10 (F) ~~(i)~~ "Expunge" means to physically remove or eliminate
11 and destroy a record or report.

12 (G) "EXECUTIVE DIRECTOR" MEANS THAT TERM AS DEFINED IN
13 SECTION 113 OF THE SOCIAL WELFARE ACT, ACT NO. 280 OF THE PUBLIC
14 ACTS OF 1939, BEING SECTION 400.113 OF THE MICHIGAN COMPILED
15 LAWS.

16 (H) ~~(j)~~ "Local office file" means the system or organized
17 mode of keeping a record of a written report, document, or photo-
18 graph filed with and maintained by a county or a regionally based
19 office of the department.

20 (I) ~~(k)~~ "Person responsible for the child's health or
21 welfare" means a parent, legal guardian, person 18 years of age
22 or older who resides for any length of time in the same home in
23 which the child resides, or a person who cares for the child in a
24 licensed or unlicensed day care center, group day care home, or
25 family day care home as defined in section 1 of Act No. 116 of
26 the Public Acts of 1973, being section 722.111 of the Michigan
27 Compiled Laws.

1 (J) "RELEVANT EVIDENCE" MEANS EVIDENCE HAVING A TENDENCY TO
2 MAKE THE EXISTENCE OF A FACT THAT IS AT ISSUE MORE PROBABLE THAN
3 IT WOULD BE WITHOUT THE EVIDENCE.

4 (K) "SEXUAL ABUSE" MEANS ENGAGING IN SEXUAL CONTACT OR
5 SEXUAL PENETRATION AS DEFINED IN SECTION 520A OF THE MICHIGAN
6 PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION
7 750.520A OF THE MICHIGAN COMPILED LAWS, WITH A CHILD.

8 (L) "SEXUAL EXPLOITATION" INCLUDES ALLOWING, PERMITTING, OR
9 ENCOURAGING A CHILD TO ENGAGE IN PROSTITUTION, OR ALLOWING, PER-
10 MITTING, ENCOURAGING, OR ENGAGING IN THE PHOTOGRAPHING, FILMING,
11 OR DEPICTING OF A CHILD ENGAGED IN A LISTED SEXUAL ACT AS DEFINED
12 IN SECTION 145C OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING
13 SECTION 750.145C OF THE MICHIGAN COMPILED LAWS.

14 Sec. 7. (1) The department shall maintain a central regis-
15 try system to carry out the intent of this act. A written
16 report, document, or photograph filed with the department pursu-
17 ant to this act shall be a confidential record available only to
18 1 or more of the following:

19 (a) ~~A~~ AN EMPLOYEE OF A legally mandated public or private
20 child protective agency WHO IS investigating a report of known or
21 suspected child abuse or neglect.

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

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

26 (d) A person legally authorized to place a child in
27 protective custody when the person is confronted with a child

1 whom the person reasonably suspects may be abused or neglected
2 and the confidential record is necessary to determine whether to
3 place the child in protective custody.

4 (e) A person, agency, or organization, including a multidis-
5 ciplinary case consultation team, authorized to diagnose, care
6 for, treat, or supervise a child or family who is the subject of
7 a report or record under this act, or who is responsible for the
8 child's health or welfare.

9 (f) A person named in the report or record, if the identity
10 of the reporting person is protected pursuant to section 5.

11 (g) A court which determines the information is necessary to
12 decide an issue before the court.

13 (h) A grand jury which determines the information is neces-
14 sary in the conduct of the grand jury's official business.

15 (i) A person, agency, or organization engaged in a bona fide
16 research or evaluation project, except information identifying a
17 person named in the report or record shall not be made available
18 unless the department has obtained that person's written
19 consent. The person, agency, or organization shall not conduct a
20 personal interview with a family without the family's prior con-
21 sent and shall not disclose information which would identify the
22 child or the child's family or other identifying information.

23 (j) A person appointed as legal counsel pursuant to
24 section 10.

25 (K) SUBJECT TO SECTION 7A, THE STANDING COMMITTEE OF EITHER
26 HOUSE OF THE LEGISLATURE HAVING JURISDICTION OVER PROTECTIVE
27 SERVICES MATTERS FOR CHILDREN.

1 (2) A person or entity to whom a report, document, or
2 photograph is made available shall make the report, document, or
3 photograph available only to a person or entity described in
4 subsection (1)(a) to ~~(j)~~ (K). This subsection shall not be
5 construed to require a court proceeding which otherwise would be
6 open to the public to be closed.

7 (3) A person who is the subject of a report or record made
8 pursuant to this act may request the department to amend an inac-
9 curate report or record from the central registry and local
10 office file. A person who is the subject of a report or record
11 made pursuant to this act may request the department to expunge
12 from the central registry a report or record in which no relevant
13 and accurate evidence of abuse or neglect is found to exist. A
14 report or record filed in a local office file shall not be
15 subject to expunction except as the department shall authorize,
16 when considered in the best interest of the child. If the
17 department refuses the request for amendment or expunction, or
18 fails to act within 30 days after receiving the request, the
19 person shall be granted a hearing to determine by a preponderance
20 of the evidence whether the report or record in whole or in part
21 should be amended or expunged from the central registry on the
22 grounds that the report or record is not relevant or accurate
23 evidence of abuse or neglect. The hearing shall be before a
24 hearing officer appointed by the department and shall be con-
25 ducted pursuant to the administrative procedures act of 1969, Act
26 No. 306 of the Public Acts of 1969, as amended, being
27 sections 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled

1 Laws. If the investigation of a report conducted pursuant to
2 this act fails to disclose evidence of abuse or neglect, the
3 information identifying the subject of the report shall be
4 expunged from the central registry. If evidence of abuse or
5 neglect exists, the information identifying the subject of the
6 report shall be expunged when the child alleged to be abused or
7 neglected reaches the age of 18, or 10 years after the report is
8 received by the department, whichever occurs later.

9 SEC. 7A. THE DEPARTMENT SHALL MAKE INFORMATION CONTAINED IN
10 THE CENTRAL REGISTRY AND REPORTS AND RECORDS MADE PURSUANT TO
11 THIS ACT AVAILABLE TO THE STANDING COMMITTEE OF EITHER HOUSE OF
12 THE LEGISLATURE HAVING JURISDICTION OVER PROTECTIVE SERVICES MAT-
13 TERS FOR CHILDREN DURING A MEETING OF THAT STANDING COMMITTEE
14 HELD IN CLOSED SESSION, PURSUANT TO THE OPEN MEETINGS ACT, ACT
15 NO. 267 OF THE PUBLIC ACTS OF 1976, BEING SECTIONS 15.261 TO
16 15.275 OF THE MICHIGAN COMPILED LAWS, IF EITHER OF THE FOLLOWING
17 APPLY:

18 (A) THE CHAIRPERSON OF A STANDING COMMITTEE REQUESTS THE
19 DEPARTMENT TO MAKE THE INFORMATION AVAILABLE TO THAT STANDING
20 COMMITTEE FOR THE PURPOSE OF HAVING THAT STANDING COMMITTEE
21 REVIEW THE DEPARTMENT'S PROTECTIVE SERVICES PROGRAM FOR
22 CHILDREN.

23 (B) THE EXECUTIVE DIRECTOR DETERMINES THAT THE INFORMATION
24 SHOULD BE BROUGHT BEFORE A STANDING COMMITTEE FOR THE PURPOSE OF
25 HAVING THAT STANDING COMMITTEE REVIEW THE DEPARTMENT'S PROTECTIVE
26 SERVICES PROGRAM FOR CHILDREN, AND THE CHAIRPERSON OF THAT

1 STANDING COMMITTEE GRANTS A REQUEST MADE BY THE EXECUTIVE
2 DIRECTOR TO MAKE THE INFORMATION AVAILABLE TO THAT COMMITTEE.