

**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

1 child neglect or a legally mandated public or private child
2 protective agency or foster care agency prosecuting a disciplinary
3 action against its own employee involving child protective services
4 or foster records.

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

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

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

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

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

23 (g) A court for the purposes of determining the suitability of
24 a person as a guardian of a minor or that otherwise determines that
25 the information is necessary to decide an issue before the court,
26 or in the event of a child's death, a court that had jurisdiction
27 over that child under section 2(b) of chapter XIIIA of the probate

1 code of 1939, 1939 PA 288, MCL 712A.2.

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

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

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

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

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

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

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

14 (n) The children's ombudsman appointed under the children's
15 ombudsman act, 1994 PA 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 is 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

1 requirements of 1984 PA 422, MCL 722.131 to 722.139a.

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

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

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

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

22 (4) If the department classifies a report of suspected child
23 abuse or child neglect as a central registry case, the department
24 shall maintain a record in the central registry and, within 30 days
25 after the classification, shall notify in writing each person who
26 is named in the record as a perpetrator of the child abuse or child
27 neglect. The notice shall be sent by registered or certified mail,

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

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

16 (6) A person who is the subject of a report or record made
17 under this act may, within 180 days from the date of service of
18 notice of the right to a hearing, request the department hold a
19 hearing to review the request for amendment or expunction. If the
20 hearing request is made within 180 days of the notice, the
21 department shall hold a hearing to determine by a preponderance of
22 the evidence whether the report or record in whole or in part
23 should be amended or expunged from the central registry. The
24 hearing shall be held before a hearing officer appointed by the
25 department and shall be conducted as prescribed by the
26 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
27 24.328. The department may, for good cause, hold a hearing under

1 this subsection if the department determines that the person who is
2 the subject of the report or record submitted the request for a
3 hearing within 60 days after the 180-day notice period expired.

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

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

22 (b) 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 abuse or neglect
27 is dead. For the purpose of this subdivision, "reliable

1 information" includes, but is not limited to, information obtained
2 using the United States social security death index database.

3 (c) For a person who is the subject of a report or record made
4 under this act before March 31, 2015 the following applies:

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

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

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

26 (9) A member or staff member of a citizen review panel shall
27 not disclose identifying information about a specific child

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

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

17 **(11) NOTWITHSTANDING SUBSECTION (2) AND SECTION 5, INFORMATION**
18 **OR RECORDS IN THE POSSESSION OF THE DEPARTMENT OR THE DEPARTMENT OF**
19 **LICENSING AND REGULATORY AFFAIRS MAY BE SHARED TO THE EXTENT**
20 **NECESSARY FOR THE PROPER FUNCTIONING OF THE DEPARTMENT OR THE**
21 **DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS IN ADMINISTERING**
22 **CHILD WELFARE OR CHILD CARE FACILITY LICENSING UNDER THIS ACT OR IN**
23 **AN INVESTIGATION CONDUCTED UNDER SECTION 43B OF THE SOCIAL WELFARE**
24 **ACT, 1939 PA 280, MCL 400.43B. INFORMATION OR RECORDS SHARED UNDER**
25 **THIS SUBSECTION SHALL NOT BE RELEASED BY EITHER THE DEPARTMENT OR**
26 **THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS UNLESS OTHERWISE**
27 **PERMITTED UNDER THIS ACT OR OTHER STATE OR FEDERAL LAW. NEITHER THE**

1 DEPARTMENT NOR THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
2 SHALL RELEASE OR OPEN FOR INSPECTION ANY DOCUMENT, REPORT, OR
3 RECORD AUTHORED BY OR OBTAINED FROM ANOTHER AGENCY OR ORGANIZATION
4 UNLESS 1 OF THE CONDITIONS OF SUBSECTION (10) APPLIES.