

**SUBSTITUTE FOR
HOUSE BILL NO. 5338**

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending section 7 (MCL 722.627), as amended by 2014 PA 30.

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 or other law enforcement agency investigating a
4 report of known or suspected child abuse or child neglect.

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

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

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

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

21 (g) A court for the purposes of determining the suitability of
22 a person as a guardian of a minor or that otherwise determines that
23 the information is necessary to decide an issue before the court.
24 In the event of a child's death, a court that had jurisdiction over
25 that child under section 2(b) of chapter XIIA of the probate code
26 of 1939, 1939 PA 288, MCL 712A.2.

27 (h) A grand jury that determines the information is necessary

1 to conduct the grand jury's official business.

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

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

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

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

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

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

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

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

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

24 (r) A child care regulatory agency.

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

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

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

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

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

27 (6) A person who is the subject of a report or record made

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

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

1 (a) Except as provided in subdivision (b), for a person listed
2 as a perpetrator in category I or II under section 8d, either as a
3 result of an investigation or as a result of the reclassification
4 of a case, the department shall maintain the information in the
5 central registry for 10 years.

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

15 (c) For a person who is the subject of a report or record made
16 under this act before the effective date of the amendatory act that
17 added this subdivision, the following applies:

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

24 (ii) 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 subparagraph,
3 "reliable information" includes, but is not limited to, information
4 obtained using the United States social security death index
5 database.

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

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

22 (10) An agency obtaining a confidential record under
23 subsection (2)(a) may seek an order from the court having
24 jurisdiction over the child or from the family division of the
25 Ingham county circuit court that allows the agency to disseminate
26 confidential child protective services or foster care information
27 to pursue sanctions for alleged dereliction, malfeasance, or

1 misfeasance of duty against an employee of the agency, to a
2 recognized labor union representative of the employee's bargaining
3 unit, or to an arbitrator or an administrative law judge who
4 conducts a hearing involving the employee's alleged dereliction,
5 malfeasance, or misfeasance of duty to be used solely in connection
6 with that hearing. Information released under this subsection shall
7 be released in a manner that maintains the greatest degree of
8 confidentiality while allowing review of employee performance.

9 (11) 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.