

Act No. 78
Public Acts of 1991
Approved by the Governor
July 18, 1991
Filed with the Secretary of State
July 18, 1991

STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1991

Introduced by Senators DeGrow and Welborn

ENROLLED SENATE BILL No. 14

AN ACT to amend section 7 of Act No. 238 of the Public Acts of 1975, entitled as amended "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts," as amended by Act No. 418 of the Public Acts of 1984, being section 722.627 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 7 of Act No. 238 of the Public Acts of 1975, as amended by Act No. 418 of the Public Acts of 1984, being section 722.627 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 7. (1) The department shall maintain a central registry system to carry out the intent of this act. A written report, document, or photograph filed with the department pursuant to this act shall be a confidential record available only to 1 or more of the following:

(a) A legally mandated public or private child protective agency investigating a report of known or suspected child abuse or neglect.

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

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

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

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

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

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

(h) A grand jury which determines the information is necessary in the conduct of the grand jury's official business.

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

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

(k) A child placing agency licensed under Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.128 of the Michigan Compiled Laws, for the purpose of investigating an applicant for adoption, a foster care applicant or licensee or an employee of a foster care applicant or licensee, an adult member of an applicant's or licensee's household, or other persons in a foster care or adoptive home who are directly responsible for the care and welfare of children, to determine suitability of a home for adoption or foster care. The child placing agency shall disclose the information to a foster care applicant or licensee under Act No. 116 of the Public Acts of 1973, or to an applicant for adoption.

(l) Juvenile court staff authorized by the court to investigate foster care applicants and licensees, employees of foster care applicants and licensees, adult members of the applicant's or licensee's household, and other persons in the home who are directly responsible for the care and welfare of children, for the purpose of determining the suitability of the home for foster care. The court shall disclose this information to the applicant or licensee.

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

(3) A person who is the subject of a report or record made pursuant to this act may request the department to amend an inaccurate report or record from the central registry and local office file. A person who is the subject of a report or record made pursuant to this act may request the department to expunge from the central registry a report or record in which no relevant and accurate evidence of abuse or neglect is found to exist. A report or record filed in a local office file shall not be subject to expunction except as the department shall authorize, when considered in the best interest of the child. If the department refuses the request for amendment or expunction, or fails to act within 30 days after receiving the request, the person shall be granted a hearing to determine by a preponderance of the evidence whether the report or record in whole or in part should be amended or expunged from the central registry on the grounds that the report or record is not relevant or accurate evidence of abuse or neglect. The hearing shall be before a hearing officer appointed by the department and shall be conducted pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws. If the investigation of a report conducted pursuant to this act fails to disclose evidence of abuse or neglect, the information identifying the subject of the report shall be expunged from the central registry. If evidence of abuse or neglect exists, the information identifying the subject of the report shall be expunged when the child alleged to be abused or neglected reaches the age of 18, or 10 years after the report is received by the department, whichever occurs later.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved

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Governor.