

SENATE BILL No. 388

June 18, 1991, Introduced by Senator WELBORN and referred to the Committee on Family Law, Criminal Law, and Corrections.

A bill to amend section 7 of Act No. 238 of the Public Acts of 1975, entitled as amended

"Child protection law,"

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:

1 Section 1. Section 7 of Act No. 238 of the Public Acts of
2 1975, as amended by Act No. 418 of the Public Acts of 1984, being
3 section 722.627 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 7. (1) The department shall maintain a central regis-
6 try system to carry out the intent of this act. A written
7 report, document, or photograph filed with the department
8 pursuant to this act shall be a confidential record available
9 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
3 or neglect.

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

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

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

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

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

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

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

24 (i) A person, agency, or organization engaged in a bona fide
25 research or evaluation project, except information identifying a
26 person named in the report or record shall not be made available
27 unless the department has obtained that person's written

1 consent. The person, agency, or organization shall not conduct a
2 personal interview with a family without the family's prior con-
3 sent and shall not disclose information which would identify the
4 child or the child's family or other identifying information.

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

7 (K) A CHILD PLACING AGENCY LICENSED UNDER ACT NO. 116 OF THE
8 PUBLIC ACTS OF 1973, BEING SECTIONS 722.111 TO 722.128 OF THE
9 MICHIGAN COMPILED LAWS, FOR THE PURPOSE OF INVESTIGATING AN
10 APPLICANT FOR ADOPTION, A FOSTER CARE APPLICANT OR LICENSEE OR AN
11 EMPLOYEE OF A FOSTER CARE APPLICANT OR LICENSEE, AN ADULT MEMBER
12 OF AN APPLICANT'S OR LICENSEE'S HOUSEHOLD, OR OTHER PERSONS IN A
13 PROPOSED FOSTER CARE OR ADOPTIVE HOME WHO ARE DIRECTLY RESPONSIB-
14 BLE FOR THE CARE AND WELFARE OF CHILDREN, TO DETERMINE SUITABIL-
15 ITY OF A HOME FOR ADOPTION OR FOSTER CARE. THE CHILD PLACING
16 AGENCY MAY DISCLOSE THE INFORMATION TO A FOSTER CARE APPLICANT OR
17 LICENSEE UNDER ACT NO. 116 OF THE PUBLIC ACTS OF 1973 OR THE
18 ADULT FOSTER CARE FACILITY LICENSING ACT, ACT NO. 218 OF THE
19 PUBLIC ACTS OF 1979, BEING SECTIONS 400.701 TO 400.737 OF THE
20 MICHIGAN COMPILED LAWS, OR TO AN APPLICANT FOR ADOPTION IF THE
21 INFORMATION IS THE BASIS FOR DENIAL OR REVOCATION OF THE LICENSE
22 OR DISAPPROVAL OF THE HOME FOR ADOPTION.

23 (l) JUVENILE COURT STAFF AUTHORIZED BY THE COURT TO INVESTI-
24 GATE FOSTER CARE APPLICANTS AND LICENSEES, EMPLOYEES OF FOSTER
25 CARE APPLICANTS AND LICENSEES, ADULT MEMBERS OF THE APPLICANT'S
26 OR LICENSEE'S HOUSEHOLD, AND OTHER PERSONS IN THE HOME WHO ARE
27 DIRECTLY RESPONSIBLE FOR THE CARE AND WELFARE OF CHILDREN, FOR

1 THE PURPOSE OF DETERMINING THE SUITABILITY OF THE HOME FOR FOSTER
2 CARE. THE COURT MAY DISCLOSE THIS INFORMATION TO THE APPLICANT
3 OR LICENSEE IF THE INFORMATION IS THE BASIS FOR DISAPPROVAL OF
4 THE APPLICATION FOR LICENSE OR RENEWAL.

5 (2) A person or entity to whom a report, document, or photo-
6 graph is made available shall make the report, document, or pho-
7 tograph available only to a person or entity described in
8 subsection (1)(a) to ~~-(j)-~~ (1). This subsection shall not be
9 construed to require a court proceeding TO BE CLOSED which other-
10 wise would be open to the public. ~~to be closed.~~

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

1 hearing officer appointed by the department and shall be
2 conducted pursuant to the administrative procedures act of 1969,
3 Act No. 306 of the Public Acts of 1969, as amended, being
4 sections 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled
5 Laws. If the investigation of a report conducted pursuant to
6 this act fails to disclose evidence of abuse or neglect, the
7 information identifying the subject of the report shall be
8 expunged from the central registry. If evidence of abuse or
9 neglect exists, the information identifying the subject of the
10 report shall be expunged when the child alleged to be abused or
11 neglected reaches the age of 18, or 10 years after the report is
12 received by the department, whichever occurs later.