



# HOUSE BILL No. 4595

April 1, 1993, Introduced by Reps. Horton and DeLange and referred to the Committee on Human Services and Children.

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. 212 of the Public Acts of 1990 and section 7 as amended by Act No. 78 of the Public Acts of 1991, 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. 212 of the Public  
3 Acts of 1990 and section 7 as amended by Act No. 78 of the Public  
4 Acts of 1991, being sections 722.622 and 722.627 of the Michigan  
5 Compiled Laws, are amended and section 7a is added to read as  
6 follows:

1       Sec. 2. As used in this act:

2       (a) "Central registry" means the system ~~or organized mode~~  
3 ~~of keeping~~ MAINTAINED AT THE DEPARTMENT THAT IS USED TO KEEP a  
4 record of all reports filed with the department pursuant to this  
5 act in which relevant and accurate evidence of child abuse or  
6 neglect is found to exist. ~~and which is maintained at the~~  
7 ~~department.~~

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

9       (c) "Child abuse" means harm or threatened harm to a child's  
10 health or welfare by a parent, legal guardian, or any other  
11 person responsible for the child's health or welfare, or by a  
12 teacher or teacher's aide, ~~which~~ THAT occurs through nonacci-  
13 dental physical or mental injury; sexual abuse; sexual exploita-  
14 tion; or maltreatment.

15       (d) "Child neglect" means harm or threatened harm to a  
16 child's health or welfare by a parent, legal guardian, or any  
17 other person responsible for the child's health or welfare  
18 ~~which~~ THAT occurs through either of the following:

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

21       (ii) Placing a child at an unreasonable risk to the child's  
22 health or welfare by failure of the parent, legal guardian, or  
23 any other person responsible for the child's health or welfare to  
24 intervene to eliminate that risk when that person is able to do  
25 so and has, or should have, knowledge of the risk.

26       (e) "Department" means the state department of social  
27 services.

1 (f) "Expunge" means to physically remove or eliminate and  
2 destroy a record or report.

3 (G) "EXECUTIVE DIRECTOR" MEANS THAT TERM AS DEFINED IN  
4 SECTION 113 OF THE SOCIAL WELFARE ACT, ACT NO. 280 OF THE PUBLIC  
5 ACTS OF 1939, BEING SECTION 400.113 OF THE MICHIGAN COMPILED  
6 LAWS.

7 (H) ~~(g)~~ "Local office file" means the system ~~or organized~~  
8 ~~mode of keeping~~ USED TO KEEP a record of a written report, docu-  
9 ment, or photograph filed with and maintained by a county or a  
10 regionally based office of the department.

11 (I) ~~(h)~~ "Person responsible for the child's health or  
12 welfare" means a parent, legal guardian, person 18 years of age  
13 or older who resides for any length of time in the same home in  
14 which the child resides, or an owner, operator, volunteer, or  
15 employee of ~~or both~~ ANY of the following:

16 (i) A licensed or unlicensed child care organization as  
17 defined in section 1 of Act No. 116 of the Public Acts of 1973,  
18 being section 722.111 of the Michigan Compiled Laws.

19 (ii) A licensed or unlicensed adult foster care family home  
20 or adult foster care small group home as defined in section 3 of  
21 the adult foster care facility licensing act, Act No. 218 of the  
22 Public Acts of 1979, being section 400.703 of the Michigan  
23 Compiled Laws.

24 (J) ~~(i)~~ "Relevant evidence" means evidence having a ten-  
25 dency to make the existence of a fact that is at issue more prob-  
26 able than it would be without the evidence.

1 (K) ~~(j)~~ "Sexual abuse" means engaging in sexual contact or  
2 sexual penetration as defined in section 520a of the Michigan  
3 penal code, Act No. 328 of the Public Acts of 1931, being section  
4 750.520a of the Michigan Compiled Laws, with a child.

5 (L) ~~(k)~~ "Sexual exploitation" includes allowing, permit-  
6 ting, or encouraging a child to engage in prostitution, or allow-  
7 ing, permitting, encouraging, or engaging in the photographing,  
8 filming, or depicting of a child engaged in a listed sexual act  
9 as defined in section 145c of Act No. 328 of the Public Acts of  
10 1931, being section 750.145c of the Michigan Compiled Laws.

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

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

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

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

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

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

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

8 (g) A court ~~which~~ THAT determines the information is nec-  
9 essary to decide an issue before the court.

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

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

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

23 (k) A child placing agency licensed under Act No. 116 of the  
24 Public Acts of 1973, being sections 722.111 to 722.128 of the  
25 Michigan Compiled Laws, for the purpose of investigating an  
26 applicant for adoption, a foster care applicant or licensee or an  
27 employee of a foster care applicant or licensee, an adult member

1 of an applicant's or licensee's household, or other persons in a  
 2 foster care or adoptive home who are directly responsible for the  
 3 care and welfare of children, to determine suitability of a home  
 4 for adoption or foster care. The child placing agency shall dis-  
 5 close the information to a foster care applicant or licensee  
 6 under Act No. 116 of the Public Acts of 1973, or to an applicant  
 7 for adoption.

8       (1) Juvenile court staff authorized by the court to investi-  
 9 gate foster care applicants and licensees, employees of foster  
 10 care applicants and licensees, adult members of the applicant's  
 11 or licensee's household, and other persons in the home who are  
 12 directly responsible for the care and welfare of children, for  
 13 the purpose of determining the suitability of the home for foster  
 14 care. The court shall disclose this information to the applicant  
 15 or licensee.

16       (M) SUBJECT TO SECTION 7A, A STANDING COMMITTEE OR APPROPRI-  
 17 ATIONS SUBCOMMITTEE OF EITHER HOUSE OF THE LEGISLATURE HAVING  
 18 JURISDICTION OVER PROTECTIVE SERVICES MATTERS FOR CHILDREN.

19       (2) A person or entity to whom a report, document, or photo-  
 20 graph is made available shall make the report, document, or pho-  
 21 tograph available only to a person or entity described in  
 22 subsection (1). ~~-(1)(a) to (d).~~ This subsection shall not be  
 23 construed to require a court proceeding to be closed ~~which~~ THAT  
 24 otherwise would be open to the public.

25       (3) A person who is the subject of a report or record made  
 26 pursuant to this act may request the department to amend an  
 27 inaccurate report or record from the central registry and local

1 office file. A person who is the subject of a report or record  
2 made pursuant to this act may request the department to expunge  
3 from the central registry a report or record in which no relevant  
4 and accurate evidence of abuse or neglect is found to exist. A  
5 report or record filed in a local office file shall not be  
6 subject to expunction except as the department shall authorize,  
7 when considered in the best interest of the child. If the  
8 department refuses the request for amendment or expunction, or  
9 fails to act within 30 days after receiving the request, the  
10 person shall be granted a hearing to determine by a preponderance  
11 of the evidence whether the report or record in whole or in part  
12 should be amended or expunged from the central registry on the  
13 grounds that the report or record is not relevant or accurate  
14 evidence of abuse or neglect. The hearing shall be before a  
15 hearing officer appointed by the department and shall be con-  
16 ducted pursuant to the administrative procedures act of 1969, Act  
17 No. 306 of the Public Acts of 1969, as amended, being  
18 sections 24.201 to 24.328 of the Michigan Compiled Laws. If the  
19 investigation of a report conducted pursuant to this act fails to  
20 disclose evidence of abuse or neglect, the information identify-  
21 ing the subject of the report shall be expunged from the central  
22 registry. If evidence of abuse or neglect exists, the informa-  
23 tion identifying the subject of the report shall be expunged when  
24 the child alleged to be abused or neglected reaches the age of  
25 18, or 10 years after the report is received by the department,  
26 whichever occurs later.

1        SEC. 7A. THE DEPARTMENT SHALL MAKE INFORMATION CONTAINED IN  
2 THE CENTRAL REGISTRY AND REPORTS AND RECORDS MADE PURSUANT TO  
3 THIS ACT AVAILABLE TO A STANDING COMMITTEE OR APPROPRIATIONS SUB-  
4 COMMITTEE OF EITHER HOUSE OF THE LEGISLATURE HAVING JURISDICTION  
5 OVER PROTECTIVE SERVICES MATTERS FOR CHILDREN DURING A MEETING OF  
6 THAT STANDING COMMITTEE OR SUBCOMMITTEE HELD IN CLOSED SESSION,  
7 PURSUANT TO THE OPEN MEETINGS ACT, ACT NO. 267 OF THE PUBLIC ACTS  
8 OF 1976, BEING SECTIONS 15.261 TO 15.275 OF THE MICHIGAN COMPILED  
9 LAWS, IF EITHER OF THE FOLLOWING APPLY:

10        (A) THE CHAIRPERSON OF THE STANDING COMMITTEE OR SUBCOMMIT-  
11 TEE REQUESTS THE DEPARTMENT TO MAKE THE INFORMATION AVAILABLE TO  
12 THAT STANDING COMMITTEE OR SUBCOMMITTEE FOR THE PURPOSE OF HAVING  
13 THAT STANDING COMMITTEE OR SUBCOMMITTEE REVIEW THE DEPARTMENT'S  
14 PROTECTIVE SERVICES PROGRAM FOR CHILDREN.

15        (B) THE EXECUTIVE DIRECTOR DETERMINES THAT THE INFORMATION  
16 SHOULD BE BROUGHT BEFORE A STANDING COMMITTEE OR SUBCOMMITTEE FOR  
17 THE PURPOSE OF HAVING THAT STANDING COMMITTEE OR SUBCOMMITTEE  
18 REVIEW THE DEPARTMENT'S PROTECTIVE SERVICES PROGRAM FOR CHILDREN,  
19 AND THE CHAIRPERSON OF THAT STANDING COMMITTEE OR SUBCOMMITTEE  
20 GRANTS A REQUEST MADE BY THE EXECUTIVE DIRECTOR TO MAKE THE  
21 INFORMATION AVAILABLE TO THAT COMMITTEE OR SUBCOMMITTEE.