



SENATE BILL No. 746

July 13, 1993, 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. 78 of the Public Acts of 1991, being section 722.627 of the Michigan Compiled Laws; and to add section 7a.

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. 78 of the Public Acts of 1991, being
3 section 722.627 of the Michigan Compiled Laws, is amended and
4 section 7a is added to read 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

1 pursuant to this act ~~shall be~~ IS a confidential record
2 available only to 1 or more of the following:

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

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

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

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

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

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

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

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

26 (i) A person, agency, or organization engaged in a bona fide
27 research or evaluation project, except information identifying a

1 person named in the report or record shall not be made available
2 unless the department has obtained that person's written
3 consent. The person, agency, or organization shall not conduct a
4 personal interview with a family without the family's prior con-
5 sent and shall not disclose information ~~which~~ THAT would iden-
6 tify the child or the child's family or other identifying
7 information.

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

10 (k) A child placing agency licensed under Act No. 116 of the
11 Public Acts of 1973, being sections 722.111 to 722.128 of the
12 Michigan Compiled Laws, for the purpose of investigating an
13 applicant for adoption, a foster care applicant or licensee or an
14 employee of a foster care applicant or licensee, an adult member
15 of an applicant's or licensee's household, or other persons in a
16 foster care or adoptive home who are directly responsible for the
17 care and welfare of children, to determine suitability of a home
18 for adoption or foster care. The child placing agency shall dis-
19 close the information to a foster care applicant or licensee
20 under Act No. 116 of the Public Acts of 1973, or to an applicant
21 for adoption.

22 (l) Juvenile court staff authorized by the court to investi-
23 gate foster care applicants and licensees, employees of foster
24 care applicants and licensees, adult members of the applicant's
25 or licensee's household, and other persons in the home who are
26 directly responsible for the care and welfare of children, for
27 the purpose of determining the suitability of the home for foster

1 care. The court shall disclose this information to the applicant
2 or licensee.

3 (M) SUBJECT TO SECTION 7A, A STANDING OR SELECT COMMITTEE OF
4 EITHER HOUSE OF THE LEGISLATURE HAVING JURISDICTION OVER PROTEC-
5 TIVE SERVICES MATTERS FOR CHILDREN.

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

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

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

14 SEC. 7A. THE DEPARTMENT SHALL MAKE INFORMATION CONTAINED IN
15 THE CENTRAL REGISTRY AND OTHER REPORTS AND RECORDS MADE PURSUANT
16 TO THIS ACT AVAILABLE TO A STANDING OR SELECT COMMITTEE OF EITHER
17 HOUSE OF THE LEGISLATURE HAVING JURISDICTION OVER PROTECTIVE
18 SERVICES MATTERS FOR CHILDREN SUBJECT TO ALL OF THE FOLLOWING:

19 (A) THE DEPARTMENT SHALL NOT PROVIDE CONFIDENTIAL INFORMA-
20 TION PROTECTED BY SECTION 7 TO A COMMITTEE UNLESS NOT LESS THAN
21 2/3 OF THE COMMITTEE MEMBERS HAVE AGREED BY ROLL CALL VOTE THAT
22 THE INFORMATION IS ESSENTIAL FOR THE PROTECTION OF MICHIGAN CHIL-
23 DREN OR FOR LEGISLATIVE OVERSIGHT OF THE PROTECTIVE SERVICES
24 PROGRAM.

25 (B) THE MEETING OF A COMMITTEE AT WHICH THE CONFIDENTIAL
26 INFORMATION IS CONSIDERED IS HELD IN CLOSED SESSION PURSUANT TO

1 THE OPEN MEETINGS ACT, ACT NO. 267 OF THE PUBLIC ACTS OF 1976,
2 BEING SECTIONS 15.261 TO 15.275 OF THE MICHIGAN COMPILED LAWS.

3 (C) MINUTES OF THE CLOSED SESSION AT WHICH THE CONFIDENTIAL
4 INFORMATION IS CONSIDERED SHALL BE TAKEN AND DISCLOSED ONLY AS
5 REQUIRED BY SECTION 7 OF ACT NO. 267 OF THE PUBLIC ACTS OF 1976,
6 BEING SECTION 15.267 OF THE MICHIGAN COMPILED LAWS. A PERSON
7 SHALL NOT KEEP A CONFIDENTIAL RECORD OR FILE, OR COPY OF A CONFIDENTIAL
8 RECORD OR FILE, AT THE CONCLUSION OF A CLOSED SESSION
9 HELD UNDER THIS SECTION. A TAPE RECORDER, CAMERA, OR OTHER
10 EQUIPMENT FOR DOCUMENTING THE PROCEEDINGS IS NOT PERMITTED IN A
11 CLOSED SESSION HELD UNDER THIS SECTION. A PERSON SHALL NOT DISCLOSE
12 OR CAUSE TO BE DISCLOSED CONFIDENTIAL INFORMATION TO WHICH
13 THE PERSON HAS GAINED ACCESS UNDER THIS SECTION.

14 (D) ATTENDANCE AT A CLOSED SESSION HELD UNDER THIS SECTION
15 IS LIMITED TO COMMITTEE MEMBERS, OTHER MEMBERS OF THE LEGISLATURE
16 AT THE DISCRETION OF THE CHAIRPERSON, 2 STAFF MEMBERS FOR THE
17 MAJORITY PARTY, 1 STAFF MEMBER FOR THE MINORITY PARTY, AND STAFF
18 MEMBERS FROM THE DEPARTMENT DESIGNATED BY THE DIRECTOR OF THE
19 DEPARTMENT.