

Act No. 225
Public Acts of 1995
Approved by the Governor
December 13, 1995
Filed with the Secretary of State
December 14, 1995

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995**

Introduced by Reps. Ryan, Bush, Brackenridge, Dalman, Perricone, Hammerstrom, London, Jersevic, Horton, Byl, Jellema, McManus, Voorhees, Pitoniak, Dobronski, DeMars, Hill, Green, McBryde and Geiger

Reps. Anthony, Baade, Bobier, Bullard, DeHart, Dolan, Freeman, Galloway, Gnodtke, Goschka, Gustafson, Hanley, Jaye, Kaza, Kelly, Kukuk, Law, LeTarte, Lowe, Middaugh, Middleton, Olshove, Oxender, Price, Rocca, Sikkema, Vaughn, Weeks and Whyman named co-sponsors

ENROLLED HOUSE BILL No. 4731

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. 393 of the Public Acts of 1994, 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. 393 of the Public Acts of 1994, 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 to carry out the intent of this act. A written report, document, or photograph filed with the department as provided in this act is 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 as provided in section 5.
- (g) A court that determines the information is necessary to decide an issue before the court.
- (h) A grand jury that 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 that would identify the child or the child's family or other identifying information.
- (j) A person appointed as legal counsel as prescribed in 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.
- (m) Subject to section 7a, a standing or select committee or appropriations subcommittee of either house of the legislature having jurisdiction over protective services matters for children.
- (n) The children's ombudsman appointed under the children's ombudsman act, Act No. 204 of the Public Acts of 1994, being sections 722.921 to 722.935 of the Michigan Compiled Laws.
- (o) Child fatality review teams authorized by the department to investigate and review child deaths. The department shall not authorize a child fatality review team to investigate and review a child death unless the membership of the child fatality review team consists of at least all of the following:
- (i) A county medical examiner or deputy county medical examiner.
 - (ii) A representative of a local law enforcement agency.
 - (iii) A representative of the department.
 - (iv) The county prosecuting attorney or his or her designee.
 - (v) A representative of the department of public health or a local health department.
- (p) A county medical examiner or deputy county medical examiner appointed under Act No. 181 of the Public Acts of 1953, being sections 52.201 to 52.216 of the Michigan Compiled Laws, for the purpose of carrying out his or her duties under Act No. 181 of the Public Acts of 1953.
- (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). This subsection shall not be construed to require a court proceeding to be closed that otherwise would be open to the public.
- (3) If a report of suspected child abuse or neglect is substantiated, the department shall maintain a record in the central registry and, within 30 days after the substantiation, shall notify in writing each individual who is named in the record as a perpetrator of the child abuse or neglect. The notice shall set forth the individual's right to request expunction of the record and the right to a hearing if the department refuses the request. The notice shall not identify the person reporting the suspected child abuse or neglect.
- (4) A person who is the subject of a report or record made under 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 under 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 is not subject to expunction except as the department authorizes, when considered in the best interest of the child.
- (5) If the department refuses a 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, being sections 24.201 to 24.328 of the Michigan Compiled Laws.
- (6) If the investigation of a report conducted under 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.

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

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.