



HOUSE BILL No. 6184

November 12, 1996, Introduced by Rep. Horton and referred to the Committee on Human Services.

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. 225 of the Public Acts of 1995, being section 722.627 of the Michigan Compiled Laws; and to add sections 7b, 7c, 7d, and 7e.

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. 225 of the Public Acts of 1995, being
3 section 722.627 of the Michigan Compiled Laws, is amended and
4 sections 7b, 7c, 7d, and 7e are added to read as follows:

5 Sec. 7. (1) The department shall maintain a central regis-
6 try to carry out the intent of this act. ~~A~~ UNLESS MADE PUBLIC
7 AS INFORMATION RELEASED UNDER SECTION 7B, A written report,
8 document, or photograph filed with the department as provided in

1 this act is a confidential record available only to 1 or more of
2 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 as provided in section 5.

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

24 (h) A grand jury that determines the information is neces-
25 sary 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 that would identify the
6 child or the child's family or other identifying information.

7 (j) A person appointed as legal counsel as prescribed in
8 section 10.

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

21 (l) Juvenile court staff authorized by the court to investi-
22 gate foster care applicants and licensees, employees of foster
23 care applicants and licensees, adult members of the applicant's
24 or licensee's household, and other persons in the home who are
25 directly responsible for the care and welfare of children, for
26 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 or
4 appropriations subcommittee of either house of the legislature
5 having jurisdiction over protective services matters for
6 children.

7 (n) The children's ombudsman appointed under the children's
8 ombudsman act, Act No. 204 of the Public Acts of 1994, being sec-
9 tions 722.921 to 722.935 of the Michigan Compiled Laws.

10 (o) Child fatality review teams authorized by the department
11 to investigate and review child deaths. The department shall not
12 authorize a child fatality review team to investigate and review
13 a child death unless the membership of the child fatality review
14 team consists of at least all of the following:

15 (i) A county medical examiner or deputy county medical
16 examiner.

17 (ii) A representative of a local law enforcement agency.

18 (iii) A representative of the department.

19 (iv) The county prosecuting attorney or his or her
20 designee.

21 (v) A representative of the department of public health or a
22 local health department.

23 (p) A county medical examiner or deputy county medical
24 examiner appointed under Act No. 181 of the Public Acts of 1953,
25 being sections 52.201 to 52.216 of the Michigan Compiled Laws,
26 for the purpose of carrying out his or her duties under Act
27 No. 181 of the Public Acts of 1953.

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

7 (3) If a report of suspected child abuse or neglect is sub-
8 stantiated, the department shall maintain a record in the central
9 registry and, within 30 days after the substantiation, shall
10 notify in writing each individual who is named in the record as a
11 perpetrator of the child abuse or neglect. The notice shall set
12 forth the individual's right to request expunction of the record
13 and the right to a hearing if the department refuses the
14 request. THE NOTICE SHALL STATE THAT THE RECORD MAY BE RELEASED
15 UNDER SECTION 7B. The notice shall not identify the person
16 reporting the suspected child abuse or neglect.

17 (4) A person who is the subject of a report or record made
18 under this act may request the department to amend an inaccurate
19 report or record from the central registry and local office
20 file. A person who is the subject of a report or record made
21 under this act may request the department to expunge from the
22 central registry a report or record in which no relevant and
23 accurate evidence of abuse or neglect is found to exist. A
24 report or record filed in a local office file is not subject to
25 expunction except as the department authorizes, when considered
26 in the best interest of the child.

1 (5) If the department refuses a request for amendment or
2 expunction, or fails to act within 30 days after receiving the
3 request, the person shall be granted a hearing to determine by a
4 preponderance of the evidence whether the report or record in
5 whole or in part should be amended or expunged from the central
6 registry on the grounds that the report or record is not relevant
7 or accurate evidence of abuse or neglect. The hearing shall be
8 before a hearing officer appointed by the department and shall be
9 conducted pursuant to the administrative procedures act of 1969,
10 Act No. 306 of the Public Acts of 1969, being sections 24.201 to
11 24.328 of the Michigan Compiled Laws.

12 (6) If the investigation of a report conducted under this
13 act fails to disclose evidence of abuse or neglect, the informa-
14 tion identifying the subject of the report shall be expunged from
15 the central registry. If evidence of abuse or neglect exists,
16 the information identifying the subject of the report shall be
17 expunged when the child alleged to be abused or neglected reaches
18 the age of 18, or 10 years after the report is received by the
19 department, whichever occurs later.

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

26 SEC. 7B. (1) SUBJECT TO THE OTHER PROVISIONS OF THIS
27 SECTION AND TO SECTIONS 7C TO 7E, AT THE DIRECTOR'S INITIATIVE OR

1 UPON REQUEST, THE DIRECTOR MAY RELEASE OTHERWISE CONFIDENTIAL
2 INFORMATION CONTAINED IN THE CENTRAL REGISTRY AND REPORTS AND
3 RECORDS MADE UNDER THIS ACT. THE DIRECTOR SHALL MAKE A DECISION
4 TO RELEASE OR NOT TO RELEASE INFORMATION UNDER THIS SECTION
5 WITHIN 30 DAYS AFTER RECEIPT OF A REQUEST FOR THE INFORMATION.
6 THE DIRECTOR MAY DESIGNATE ANOTHER INDIVIDUAL TO ACT FOR THE
7 DIRECTOR UNDER THIS SECTION, AND A REFERENCE TO THE DIRECTOR
8 UNDER THIS SECTION OR SECTIONS 7C AND 7D APPLIES TO AN INDIVIDUAL
9 SO DESIGNATED.

10 (2) THE DIRECTOR MAY RELEASE INFORMATION UNDER THIS SECTION
11 AFTER CONSIDERATION OF ALL OF THE FOLLOWING FACTORS:

12 (A) THE RELEASE OF THE INFORMATION IS IN THE BEST INTERESTS
13 OF THE CHILD TO WHOM THE INFORMATION IS RELATED.

14 (B) THE RELEASE OF THE INFORMATION IS IN THE BEST INTERESTS
15 OF THE FAMILY OF THE CHILD TO WHOM THE INFORMATION IS RELATED.

16 (C) THE RELEASE PROMOTES THE INTEGRITY OF THE CHILD PROTEC-
17 TION SYSTEM.

18 (D) THE LENGTH OF TIME SINCE THE CASE WAS CLOSED.

19 (3) THE DIRECTOR SHALL NOT RELEASE INFORMATION UNDER THIS
20 SECTION UNLESS 1 OR MORE OF THE FOLLOWING ARE TRUE:

21 (A) AN INDIVIDUAL IS CRIMINALLY CHARGED WITH A CRIME INVOLV-
22 ING THE FAMILY OF A CHILD WHO IS THE SUBJECT OF A REPORT TO THE
23 DEPARTMENT UNDER THIS ACT.

24 (B) ALL OR PART OF THE RECORD IS PUBLICLY DISCLOSED IN A
25 JUDICIAL PROCEEDING OR IN THE MEDIA.

26 (C) THE RECORD CONCERNS A CHILD WHO HAS DIED OR THAT CHILD'S
27 FAMILY.

1 (4) IF THE REQUIREMENTS OF SUBSECTIONS (2) AND (3) ARE MET,
2 THE DIRECTOR SHALL NOT RELEASE INFORMATION UNDER THIS SECTION IF
3 ANY OF THE FOLLOWING ARE TRUE:

4 (A) THE REQUEST FOR RELEASE DOES NOT INCLUDE A NAME,
5 ADDRESS, OR OTHER INFORMATION SUFFICIENT TO IDENTIFY THE SPECIFIC
6 CASE TO WHICH THE REQUEST RELATES.

7 (B) THE INVESTIGATION OF THE REPORT OF CHILD ABUSE OR
8 NEGLECT TO WHICH THE INFORMATION RELATES IS IN PROGRESS AND THE
9 REPORT HAS NEITHER BEEN SUBSTANTIATED NOR UNSUBSTANTIATED.

10 (C) A HEARING IS PENDING UNDER SECTION 7(5).

11 (D) THE INDIVIDUAL WHO SUBMITS THE REQUEST IS SERVING A SEN-
12 TENCE OF IMPRISONMENT IN A STATE, COUNTY, OR FEDERAL CORRECTIONAL
13 FACILITY IN THIS OR ANOTHER STATE. THIS SUBDIVISION DOES NOT
14 APPLY IF THE REQUEST IS SUBMITTED BY A PARENT OF THE CHILD
15 REPORTED TO BE ABUSED OR NEGLECTED OR BY AN INDIVIDUAL REPORTED
16 TO BE THE PERPETRATOR OF THE ABUSE OR NEGLECT.

17 (5) INFORMATION RELEASED UNDER THIS SECTION SHALL NOT
18 INCLUDE ANY OF THE FOLLOWING:

19 (A) INFORMATION THAT IS CONFIDENTIAL UNDER THIS OR ANOTHER
20 STATE OR FEDERAL LAW, INCLUDING, BUT NOT LIMITED TO, IDENTIFICA-
21 TION OF A REPORTING PERSON AS PROVIDED IN SECTION 5 OR INFORMA-
22 TION IN A LAW ENFORCEMENT OR MEDICAL RECORD THAT IS SPECIFICALLY
23 DESIGNATED AS CONFIDENTIAL UNDER THIS OR ANOTHER LAW.

24 (B) PERSONAL IDENTIFICATION INFORMATION ABOUT A SPECIFIC
25 INDIVIDUAL, INCLUDING, BUT NOT LIMITED TO, AN INDIVIDUAL'S NAME,
26 ADDRESS, TELEPHONE NUMBER, AND SOCIAL SECURITY NUMBER.

1 SEC. 7C. (1) IF THE DIRECTOR DECIDES TO RELEASE INFORMATION
2 UNDER SECTION 7B, NOT LESS THAN 10 DAYS BEFORE THE INFORMATION IS
3 RELEASED, THE DEPARTMENT SHALL GIVE NOTICE OF THE DECISION AS
4 FOLLOWS:

5 (A) IF THE RELEASE IS INFORMATION ABOUT AN UNSUBSTANTIATED
6 CASE, TO ALL OF THE FOLLOWING:

7 (i) EACH INDIVIDUAL REPORTED IN THE INFORMATION AS AN UNSUB-
8 STANTIATED PERPETRATOR OF THE CHILD'S ABUSE OR NEGLECT.

9 (ii) EACH PARENT OR LEGAL GUARDIAN OF THE CHILD.

10 (iii) AN ATTORNEY REPRESENTING THE CHILD WHO IS THE SUBJECT
11 OF THE CASE, OR REPRESENTING AN INDIVIDUAL LISTED IN SUBPARAGRAPH
12 (i) OR (ii), IF THE DEPARTMENT HAS NOTICE OF THAT
13 REPRESENTATION.

14 (iv) THE CHILD'S GUARDIAN AD LITEM.

15 (B) IF THE RELEASE IS INFORMATION ABOUT A SUBSTANTIATED
16 CASE, TO ALL OF THE FOLLOWING:

17 (i) EACH PARENT OR LEGAL GUARDIAN OF THE CHILD NOT REPORTED
18 IN THE INFORMATION AS A SUBSTANTIATED PERPETRATOR OF THE CHILD'S
19 ABUSE OR NEGLECT.

20 (ii) AN ATTORNEY REPRESENTING THE CHILD WHO IS THE SUBJECT
21 OF THE CASE, OR REPRESENTING AN INDIVIDUAL LISTED IN SUBPARAGRAPH
22 (i), IF THE DEPARTMENT HAS NOTICE OF THAT REPRESENTATION.

23 (iii) THE CHILD'S GUARDIAN AD LITEM.

24 (2) THE NOTICE REQUIRED UNDER SUBSECTION (1) SHALL INCLUDE
25 AT LEAST NOTIFICATION OF THE RIGHT TO APPEAL THE DIRECTOR'S DECI-
26 SION TO RELEASE OR NOT TO RELEASE INFORMATION UNDER SECTION 7B.

1 (3) IF THE DIRECTOR DENIES A REQUEST FOR RELEASE OF
2 INFORMATION UNDER SECTION 7B, THE DIRECTOR SHALL NOTIFY THE
3 REQUESTING PERSON, GIVING THE REASON FOR THAT DENIAL.

4 SEC. 7D. (1) BEFORE THE ACTUAL RELEASE OF INFORMATION UNDER
5 SECTION 7B, AN INDIVIDUAL REQUIRED TO BE NOTIFIED UNDER SECTION
6 7C(1) MAY APPEAL THE DECISION TO RELEASE THE INFORMATION TO THE
7 CIRCUIT COURT. IF AN APPEAL IS FILED BEFORE THE ACTUAL RELEASE,
8 THE INFORMATION SHALL NOT BE RELEASED UNTIL THE DECISION TO
9 RELEASE IS UPHOLD BY THE CIRCUIT COURT. IF THE DIRECTOR DENIES A
10 REQUEST TO RELEASE INFORMATION UNDER SECTION 7B, WITHIN 30 DAYS
11 AFTER NOTICE OF THE DENIAL, THE PERSON WHOSE REQUEST IS DENIED
12 MAY FILE AN APPEAL OF THAT DENIAL WITH THE CIRCUIT COURT. THE
13 COURT SHALL UPHOLD A DECISION TO RELEASE OR DENY RELEASE OF
14 INFORMATION UNLESS THE COURT DETERMINES THE DECISION WAS ARBI-
15 TRARY AND CAPRICIOUS CONSIDERING THE CIRCUMSTANCES RELATED TO THE
16 REQUEST PRESENTED BY THE DEPARTMENT AND THE REQUESTING
17 INDIVIDUAL.

18 (2) PROCEEDINGS ON AN APPEAL FILED UNDER THIS SECTION ARE
19 CONFIDENTIAL, AND NONE OF THE RECORD OF THESE PROCEEDINGS SHALL
20 BE MADE PUBLIC UNLESS THE COURT UPHOLDS A DECISION TO RELEASE
21 INFORMATION OR OVERTURNS THE DENIAL OF A REQUEST FOR RELEASE.
22 THE COURT SHALL CONDUCT ITS REVIEW SO THAT A PERSON WHOSE REQUEST
23 FOR INFORMATION WAS DENIED DOES NOT HAVE ACCESS TO THAT INFORMA-
24 TION DURING THE APPEAL PROCEEDINGS.

25 SEC. 7E. (1) THE DEPARTMENT MAY CHARGE A FEE FOR A COPY OF
26 INFORMATION RELEASED UNDER SECTION 7B IN THE SAME MANNER AS A
27 PUBLIC BODY IS AUTHORIZED TO CHARGE A FEE UNDER SECTION 4 OF THE

1 FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE PUBLIC ACTS OF
2 1976, BEING SECTION 15.234 OF THE MICHIGAN COMPILED LAWS.

3 (2) SECTION 7B, 7C, OR 7D OR THIS SECTION SHALL NOT BE CON-
4 STRUED TO SUBJECT A RECORD THAT IS CONFIDENTIAL UNDER THIS ACT TO
5 DISCLOSURE UNDER ACT NO. 442 OF THE PUBLIC ACTS OF 1976, BEING
6 SECTIONS 15.231 TO 15.246 OF THE MICHIGAN COMPILED LAWS.