

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4232

A bill to amend 1975 PA 238, entitled "Child protection law," by amending sections 2, 5, 7, and 18 (MCL 722.622, 722.625, 722.627, and 722.638), section 2 as amended by 1996 PA 581, section 5 as amended by 1994 PA 393, and section 7 as amended and section 18 as added by 1997 PA 168, and by adding sections 7c, 7d, 7e, 7f, 7g, 7h, 7i, and 9a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Central registry" means the system maintained at the
3 department that is used to keep a record of all reports filed
4 with the department pursuant to this act in which relevant and
5 accurate evidence of child abuse or neglect is found to exist.

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

2 (c) "Child abuse" means harm or threatened harm to a child's
3 health or welfare by a parent, legal guardian, or any other
4 person responsible for the child's health or welfare, or by a
5 teacher or teacher's aide, that occurs through nonaccidental
6 physical or mental injury; sexual abuse; sexual exploitation; or
7 maltreatment.

8 (d) "Child neglect" means harm or threatened harm to a
9 child's health or welfare by a parent, legal guardian, or any
10 other person responsible for the child's health or welfare that
11 occurs through either of the following:

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

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

19 (e) "Controlled substance" means that term as defined in
20 section 7104 of the public health code, ~~Act No. 368 of the~~
21 ~~Public Acts of 1978, being section 333.7104 of the Michigan~~
22 ~~Compiled Laws~~ 1978 PA 368, MCL 333.7104.

23 (f) "Department" means the family independence agency.

24 (g) "Director" means the director of the department.

25 (h) "Expunge" means to physically remove or eliminate and
26 destroy a record or report.

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1 (i) "Local office file" means the system used to keep a
2 record of a written report, document, or photograph filed with
3 and maintained by a county or a regionally based office of the
4 department.

5 (j) "Person responsible for the child's health or welfare"
6 means a parent, legal guardian, person 18 years of age or older
7 who resides for any length of time in the same home in which the
8 child resides, or an owner, operator, volunteer, or employee of
9 any of the following:

10 (i) A licensed or unlicensed child care organization as
11 defined in section 1 of ~~Act No. 116 of the Public Acts of 1973,~~
12 ~~being section 722.111 of the Michigan Compiled Laws~~ 1973 PA 116,
13 MCL 722.111.

14 (ii) A licensed or unlicensed adult foster care family home
15 or adult foster care small group home as defined in section 3 of
16 the adult foster care facility licensing act, ~~Act No. 218 of the~~
17 ~~Public Acts of 1979, being section 400.703 of the Michigan~~
18 ~~Compiled Laws~~ 1979 PA 218, MCL 400.703.

19 (k) "Relevant evidence" means evidence having a tendency to
20 make the existence of a fact that is at issue more probable than
21 it would be without the evidence.

22 (l) "Sexual abuse" means engaging in sexual contact or
23 sexual penetration as THOSE TERMS ARE defined in section 520a of
24 the Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~
25 ~~being section 750.520a of the Michigan Compiled Laws~~ 1931 PA
26 328, MCL 750.520A, with a child.

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1 (m) "Sexual exploitation" includes allowing, permitting, or
2 encouraging a child to engage in prostitution, or allowing,
3 permitting, encouraging, or engaging in the photographing, film-
4 ing, or depicting of a child engaged in a listed sexual act as
5 defined in section 145c of ~~Act No. 328 of the Public Acts of~~
6 ~~1931, being section 750.145c of the Michigan Compiled Laws~~ 1931
7 PA 328, MCL 750.145C.

8 (N) "SPECIFIED INFORMATION" MEANS INFORMATION IN A CHILD
9 PROTECTIVE SERVICES RECORD THAT RELATES SPECIFICALLY TO REFERRALS
10 OR REPORTS OF [REDACTED] SUBSTANTIATED REPORTS OF CHILD ABUSE OR
11 NEGLECT. SPECIFIED INFORMATION DOES NOT INCLUDE ANY OF THE
12 FOLLOWING:

13 (i) EXCEPT AS PROVIDED IN THIS SUBPARAGRAPH REGARDING A PER-
14 PETRATOR OF CHILD ABUSE OR NEGLECT, PERSONAL IDENTIFICATION
15 INFORMATION FOR ANY INDIVIDUAL IDENTIFIED IN A CHILD PROTECTIVE
16 SERVICES RECORD. THE EXCLUSION OF PERSONAL IDENTIFICATION INFOR-
17 MATION AS SPECIFIED INFORMATION PRESCRIBED BY THIS SUBPARAGRAPH
18 DOES NOT INCLUDE PERSONAL IDENTIFICATION INFORMATION IDENTIFYING
19 AN INDIVIDUAL ALLEGED TO HAVE PERPETRATED CHILD ABUSE OR NEGLECT,
20 WHICH ALLEGATION HAS BEEN SUBSTANTIATED.

21 (ii) INFORMATION IN A LAW ENFORCEMENT REPORT AS PROVIDED IN
22 SECTION 7(8).

23 (iii) ANY OTHER INFORMATION THAT IS SPECIFICALLY DESIGNATED
24 AS CONFIDENTIAL UNDER OTHER LAW.

25 Sec. 5. Except for records available under section
26 ~~7(1)(a)~~ 7(2)(A) and (b), the identity of a reporting person is
27 confidential subject to disclosure only with the consent of that

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1 person or by judicial process. A person acting in good faith who
2 makes a report, cooperates in an investigation, or assists in any
3 other requirement of this act is immune from civil or criminal
4 liability that might otherwise be incurred by that action. A
5 person making a report or assisting in any other requirement of
6 this act is presumed to have acted in good faith. This immunity
7 from civil or criminal liability extends only to acts done pursu-
8 ant to this act and does not extend to a negligent act that
9 causes personal injury or death or to the malpractice of a physi-
10 cian that results in personal injury or death.

11 Sec. 7. (1) The department shall maintain a statewide,
12 electronic central registry to carry out the intent of this act.

13 ~~A~~

14 (2) UNLESS MADE PUBLIC AS SPECIFIED INFORMATION RELEASED
15 UNDER SECTION 7D, A written report, document, or photograph filed
16 with the department as provided in this act is a confidential
17 record available only to 1 or more of the following:

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

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

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

25 (d) A person legally authorized to place a child in protec-
26 tive custody when the person is confronted with a child whom the
27 person reasonably suspects may be abused or neglected and the

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1 confidential record is necessary to determine whether to place
2 the child in protective custody.

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

8 (f) A person named in the report or record AS A PERPETRATOR
9 OR ALLEGED PERPETRATOR OF THE CHILD ABUSE OR NEGLECT OR A VICTIM
10 WHO IS AN ADULT AT THE TIME OF THE REQUEST, if the identity of
11 the reporting person is protected as provided in section 5.

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

14 (h) A grand jury that determines the information is neces-
15 sary in the conduct of the grand jury's official business.

16 (i) A person, agency, or organization engaged in a bona fide
17 research or evaluation project. The person, agency, or organiza-
18 tion shall not release information identifying a person named in
19 the report or record unless that person's written consent is
20 obtained. The person, agency, or organization shall not conduct
21 a personal interview with a family without the family's prior
22 consent and shall not disclose information that would identify
23 the child or the child's family or other identifying
24 information. The department director may authorize the release
25 of information to a person, agency, or organization described in
26 this subdivision if the release contributes to the purposes of
27 this act and the person, agency, or organization has appropriate

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1 controls to maintain the confidentiality of personally
2 identifying information for a person named in a report or record
3 made under this act.

4 (j) A person appointed as legal counsel as prescribed in
5 section 10.

6 (k) A child placing agency licensed under 1973 PA 116, MCL
7 722.111 to 722.128, for the purpose of investigating an applicant
8 for adoption, a foster care applicant or licensee or an employee
9 of a foster care applicant or licensee, an adult member of an
10 applicant's or licensee's household, or other persons in a foster
11 care or adoptive home who are directly responsible for the care
12 and welfare of children, to determine suitability of a home for
13 adoption or foster care. The child placing agency shall disclose
14 the information to a foster care applicant or licensee under 1973
15 PA 116, MCL 722.111 to 722.128, or to an applicant for adoption.

16 (l) Juvenile court staff authorized by the court to investi-
17 gate foster care applicants and licensees, employees of foster
18 care applicants and licensees, adult members of the applicant's
19 or licensee's household, and other persons in the home who are
20 directly responsible for the care and welfare of children, for
21 the purpose of determining the suitability of the home for foster
22 care. The court shall disclose this information to the applicant
23 or licensee.

24 (m) Subject to section 7a, a standing or select committee or
25 appropriations subcommittee of either house of the legislature
26 having jurisdiction over protective services matters for
27 children.

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1 (n) The children's ombudsman appointed under the children's
2 ombudsman act, 1994 PA 204, MCL 722.921 to 722.935.

3 (o) A child fatality review team established under section
4 7b and authorized under that section to investigate and review a
5 child death.

6 (p) A county medical examiner or deputy county medical
7 examiner appointed under 1953 PA 181, MCL 52.201 to 52.216, for
8 the purpose of carrying out his or her duties under that act.

9 (3) ~~(2)~~ A person or entity to whom information described
10 in subsection ~~(1)~~ (2) is disclosed shall make the information
11 available only to a person or entity described in subsection
12 ~~(1)~~ (2). This subsection does not require a court proceeding
13 to be closed that otherwise would be open to the public.

14 (4) ~~(3)~~ If a report of suspected child abuse or neglect is
15 substantiated, the department shall maintain a record in the cen-
16 tral registry and, within 30 days after the substantiation, shall
17 notify in writing each individual who is named in the record as a
18 perpetrator of the child abuse or neglect. The notice shall set
19 forth the individual's right to request expunction of the record
20 and the right to a hearing if the department refuses the
21 request. THE NOTICE SHALL STATE THAT THE RECORD MAY BE RELEASED
22 UNDER SECTION 7D. The notice shall not identify the person
23 reporting the suspected child abuse or neglect.

24 (5) ~~(4)~~ A person who is the subject of a report or record
25 made under this act may request the department to amend an inac-
26 curate report or record from the central registry and local
27 office file. A person who is the subject of a report or record

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1 made under this act may request the department to expunge from
2 the central registry a report or record in which no relevant and
3 accurate evidence of abuse or neglect is found to exist. A
4 report or record filed in a local office file is not subject to
5 expunction except as the department authorizes, when considered
6 in the best interest of the child.

7 (6) ~~-(5)-~~ If the department refuses a request for amendment
8 or expunction under subsection ~~-(4)-~~ (5), or fails to act within
9 30 days after receiving the request, ~~as required under subsec-~~
10 ~~tion (4),~~ the department shall hold a hearing to determine by a
11 preponderance of the evidence whether the report or record in
12 whole or in part should be amended or expunged from the central
13 registry on the grounds that the report or record is not relevant
14 or accurate evidence of abuse or neglect. The hearing shall be
15 before a hearing officer appointed by the department and shall be
16 conducted pursuant to the administrative procedures act of 1969,
17 1969 PA 306, MCL 24.201 to 24.328.

18 (7) ~~-(6)-~~ If the investigation of a report conducted under
19 this act fails to disclose evidence of abuse or neglect, the
20 information identifying the subject of the report shall be
21 expunged from the central registry. If evidence of abuse or
22 neglect exists, the information identifying the subject of the
23 report shall be expunged when the child alleged to be abused or
24 neglected reaches the age of 18, or 10 years after the report is
25 received by the department, whichever occurs later.

26 (8) ~~-(7)-~~ In releasing information under this act, the
27 department shall not include a report compiled by a police agency

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1 or other law enforcement agency related to an investigation of
2 suspected child abuse or neglect. This subsection does not pre-
3 vent the department from including reports of convictions of
4 crimes related to child abuse or neglect.

5 SEC. 7C. (1) SECTIONS 7D TO 7I GOVERN THE DIRECTOR'S DECI-
6 SIONS TO RELEASE SPECIFIED INFORMATION FROM CHILD PROTECTIVE
7 SERVICES RECORDS.

8 (2) THE DIRECTOR MAY DESIGNATE ANOTHER INDIVIDUAL TO ACT FOR
9 THE DIRECTOR UNDER SECTIONS 7D TO 7I, AND A REFERENCE TO THE
10 DIRECTOR UNDER THOSE SECTIONS APPLIES TO AN INDIVIDUAL DESIGNATED
11 BY THE DIRECTOR.

12 (3) FOR THE PURPOSES OF SECTIONS 7D TO 7I, A CHILD'S BEST
13 INTEREST SHALL BE DETERMINED BASED ON ALL OF THE FOLLOWING:

14 (A) PROTECTION OF THE CHILD'S SAFETY.

15 (B) PRESERVATION OF THE CHILD'S PHYSICAL, MENTAL, AND EMO-
16 TIONAL HEALTH.

17 (C) CONSIDERATION OF THE CHILD'S LIKELIHOOD OF ESTABLISHING
18 A SUCCESSFUL AND TIMELY PERMANENT FAMILY AND COMMUNITY
19 RELATIONSHIP.

20 (4) SECTIONS 7D TO 7I DO NOT SUBJECT A REPORT OR RECORD THAT
21 IS CONFIDENTIAL UNDER THIS ACT TO DISCLOSURE UNDER THE FREEDOM OF
22 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

23 SEC. 7D. (1) SUBJECT TO SECTIONS 7C TO 7I, AT THE
24 DIRECTOR'S INITIATIVE OR UPON WRITTEN REQUEST, THE DIRECTOR MAY
25 RELEASE SPECIFIED INFORMATION. IF A WRITTEN REQUEST FOR SPECI-
26 FIED INFORMATION IS SUBMITTED TO THE DEPARTMENT, THE DIRECTOR
27 SHALL MAKE A PRELIMINARY DECISION TO RELEASE OR TO DENY RELEASE

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1 OF THE SPECIFIED INFORMATION WITHIN 14 DAYS AFTER RECEIPT OF THE
2 REQUEST. AFTER NOTIFYING THE REQUESTER, THE DIRECTOR MAY EXTEND
3 THAT TIME PERIOD FOR AN ADDITIONAL 14 DAYS IF THE ADDITIONAL TIME
4 IS NECESSARY TO RESEARCH AND COMPILE THE REQUESTED SPECIFIED
5 INFORMATION.

6 (2) THE DIRECTOR MAY RELEASE SPECIFIED INFORMATION UNDER
7 THIS SECTION IF THERE IS CLEAR AND CONVINCING EVIDENCE THAT
8 EITHER OF THE FOLLOWING IS TRUE:

9 (A) THE RELEASE OF THE SPECIFIED INFORMATION IS IN THE BEST
10 INTEREST OF THE CHILD TO WHOM THE SPECIFIED INFORMATION RELATES.

11 (B) THE RELEASE OF THE SPECIFIED INFORMATION IS NOT IN CON-
12 FFLICT WITH THE BEST INTEREST OF THE CHILD TO WHOM THE SPECIFIED
13 INFORMATION RELATES, AND 1 OR MORE OF THE FOLLOWING ARE TRUE:

14 (i) THE RELEASE IS IN THE BEST INTEREST OF A MEMBER OF THE
15 CHILD'S FAMILY OR OF AN INDIVIDUAL WHO RESIDES IN THE SAME HOME
16 IN WHICH THE CHILD RESIDES. FOR THE PURPOSES OF THIS SUBPARA-
17 GRAPH, THE CHILD'S FAMILY INCLUDES THE CHILD'S PARENTS, LEGAL
18 GUARDIANS, GRANDPARENTS, AND SIBLINGS.

19 (ii) THE RELEASE CLARIFIES ACTIONS TAKEN BY THE DEPARTMENT
20 ON A SPECIFIC CASE.

21 (iii) THE REPORT OR RECORD CONTAINING THE SPECIFIED INFORMA-
22 TION CONCERNS A CHILD WHO HAS DIED OR CONCERNS A MEMBER OF THAT
23 CHILD'S FAMILY.

24 (iv) ALL OR PART OF THE REPORT OR RECORD CONTAINING THE
25 SPECIFIED INFORMATION IS PUBLICLY DISCLOSED IN A JUDICIAL
26 PROCEEDING.

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1 (v) A CHILD ABUSE OR NEGLECT COMPLAINT OR INVESTIGATION TO
2 WHICH THE REPORT OR RECORD CONTAINING THE SPECIFIED INFORMATION
3 RELATES HAS BEEN PART OF THE SUBJECT MATTER OF A PUBLISHED OR
4 BROADCAST MEDIA STORY.

5 (vi) THE REPORT OR RECORD CONTAINING THE SPECIFIED INFORMA-
6 TION CONCERNS A SUBSTANTIATED REPORT OF SEXUAL ABUSE, SERIOUS
7 INJURY, OR LIFE THREATENING HARM INVOLVING THE CHILD OR A SIBLING
8 OF THE CHILD IDENTIFIED IN THE REQUEST.

9 SEC. 7E. (1) THE DIRECTOR SHALL NOT DENY A REQUEST FOR
10 SPECIFIED INFORMATION UNDER SECTION 7D BASED UPON A DESIRE TO
11 SHIELD A LACK OF OR AN INAPPROPRIATE PERFORMANCE BY THE
12 DEPARTMENT.

13 (2) REGARDLESS OF THE DIRECTOR'S DETERMINATION THAT SPECI-
14 FIED INFORMATION MAY BE RELEASED UNDER SECTION 7D, THE DIRECTOR
15 SHALL NOT RELEASE THE SPECIFIED INFORMATION IF 1 OR MORE OF THE
16 FOLLOWING ARE TRUE:

17 (A) THE REQUEST FOR RELEASE DOES NOT INCLUDE INFORMATION
18 SUFFICIENT TO IDENTIFY THE SPECIFIC CASE TO WHICH THE REQUEST
19 RELATES.

20 (B) AN INVESTIGATION OF THE REPORT OF CHILD ABUSE OR NEGLECT
21 TO WHICH THE SPECIFIED INFORMATION RELATES IS IN PROGRESS AND THE
22 REPORT HAS NOT BEEN SUBSTANTIATED OR UNSUBSTANTIATED.

23 (C) A HEARING IS PENDING UNDER SECTION 7(6).

24 (D) THERE IS AN ONGOING CRIMINAL INVESTIGATION AND, AS
25 DETERMINED BY THE LOCAL PROSECUTING ATTORNEY, RELEASE WOULD
26 INTERFERE WITH THE CRIMINAL INVESTIGATION.

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1 (E) THE INDIVIDUAL WHO SUBMITS THE REQUEST IS SERVING A
2 SENTENCE OF IMPRISONMENT IN A STATE, COUNTY, OR FEDERAL
3 CORRECTIONAL FACILITY IN THIS STATE OR IN ANOTHER STATE.

4 (F) THE CHILD TO WHOM THE REPORT OR RECORD RELATES IS 18
5 YEARS OF AGE OR OLDER.

6 SEC. 7F. (1) NOT LESS THAN 14 DAYS BEFORE SPECIFIED INFOR-
7 MATION IS RELEASED OR WITHIN 14 DAYS AFTER MAKING A DECISION TO
8 DENY A REQUEST FOR RELEASE OF SPECIFIED INFORMATION UNDER SECTION
9 7D, THE DIRECTOR SHALL GIVE NOTICE AS PROVIDED IN THIS SUBSECTION
10 AND SECTION 7G OF A PRELIMINARY DECISION TO RELEASE OR TO DENY A
11 REQUEST TO RELEASE SPECIFIED INFORMATION. THE NOTICE SHALL BE IN
12 WRITING AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED AND DELIVERABLE
SHALL BE MADE BY PERSONAL SERVICE OR BY REGISTERED OR TO THE
ADDRESSEE ONLY. THE NOTICE SHALL INCLUDE AT LEAST ALL OF THE
FOLLOWING:

13 (A) THE BASIS ON WHICH THE SPECIFIED INFORMATION IS BEING
14 RELEASED OR THE BASIS FOR DENIAL OF THE REQUEST FOR RELEASE.

15 (B) A STATEMENT THAT THE DECISION BECOMES A FINAL DECISION
16 UNLESS INFORMATION THAT COULD BE THE BASIS FOR A DIFFERENT DECI-
17 SION IS SUBMITTED TO THE DIRECTOR IN WRITING WITHIN 14 DAYS AFTER
18 THE NOTICE IS GIVEN.

19 (C) A STATEMENT THAT THERE IS A RIGHT TO APPEAL A FINAL
20 DECISION AS PROVIDED IN SECTION 7H. THE NOTICE SHALL INCLUDE
21 INFORMATION REGARDING WHERE TO FILE THE APPEAL AND DESCRIBING
22 APPELLATE PROCEDURES.

23 (2) IF, WITHIN 14 DAYS AFTER GIVING NOTICE, THE DIRECTOR
24 DOES NOT RECEIVE INFORMATION IN WRITING THAT COULD BE THE BASIS
25 FOR A DIFFERENT DECISION, THE DIRECTOR'S DECISION IS FINAL.

26 (3) IF THE DIRECTOR DOES RECEIVE INFORMATION AS DESCRIBED IN
27 SUBSECTION (2), THE DIRECTOR SHALL MAKE A FINAL DECISION TO

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1 RELEASE OR DENY A REQUEST TO RELEASE THE SPECIFIED INFORMATION
2 WITHIN 7 DAYS AFTER RECEIPT OF THE INFORMATION. THE DIRECTOR
3 SHALL GIVE NOTICE OF A FINAL DECISION MADE UNDER THIS SUBSECTION
4 TO EACH INDIVIDUAL REQUIRED TO BE NOTIFIED UNDER SECTION 7G(1) OR
5 (2). THE NOTICE REQUIRED BY THIS SUBSECTION SHALL BE IN WRITING
6 AND SHALL INCLUDE AT LEAST NOTIFICATION OF THE RIGHT TO APPEAL A
7 FINAL DECISION AS PROVIDED IN SECTION 7H.

8 SEC. 7G. (1) IF THE DIRECTOR DECIDES TO RELEASE SPECIFIED
9 INFORMATION UNDER SECTION 7D, THE DEPARTMENT SHALL GIVE EACH
10 NOTICE REQUIRED UNDER SECTION 7F TO EACH OF THE FOLLOWING:

11 (A) EACH INDIVIDUAL NAMED IN THE REPORT AS A PERPETRATOR OR
12 AN ALLEGED PERPETRATOR OF THE CHILD'S ABUSE OR NEGLECT, UNLESS
13 THE INDIVIDUAL NAMED IN THE REPORT HAS BEEN CONVICTED OF A CRIME
14 RELATING TO THE ABUSE OR NEGLECT, AND NO APPEAL IS PENDING.

15 (B) EACH PARENT OR LEGAL GUARDIAN OF THE CHILD.

16 (C) EACH ATTORNEY REPRESENTING THE CHILD WHO IS THE SUBJECT
17 OF THE CASE, OR REPRESENTING AN INDIVIDUAL LISTED IN SUBDIVISION
18 (A) OR (B), IF THE DEPARTMENT HAS NOTICE OF THAT REPRESENTATION.

19 (D) THE CHILD'S GUARDIAN AD LITEM.

20 (2) IF THE DIRECTOR DENIES A REQUEST FOR RELEASE OF INFORMA-
21 TION UNDER SECTION 7D, THE DEPARTMENT SHALL NOTIFY ONLY THE
22 REQUESTING PERSON.

23 (3) IF AN INDIVIDUAL REQUIRED TO BE NOTIFIED UNDER SUBSEC-
24 TION (1)(A) IS NAMED AS A PERPETRATOR OF CHILD ABUSE OR NEGLECT
25 IN A REPORT THAT CONTAINS SPECIFIED INFORMATION REQUESTED TO BE
26 RELEASED, AND THAT INDIVIDUAL WAS NOT PREVIOUSLY NOTIFIED UNDER
27 SECTION 7(4), THE DEPARTMENT SHALL NOTIFY THAT INDIVIDUAL AS

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1 REQUIRED BY SECTION 7(4) NOT LESS THAN 14 DAYS BEFORE THE
2 SPECIFIED INFORMATION IS RELEASED. IF AN INDIVIDUAL WHO IS
3 REQUIRED TO BE NOTIFIED UNDER THIS SUBSECTION REQUESTS EXPUNCTION
4 OF THE RECORD WITHIN 14 DAYS AFTER THE NOTICE IS GIVEN, THE SPEC-
5 IFIED INFORMATION SHALL NOT BE RELEASED UNDER THIS SECTION UNTIL
6 THE PROCEDURES GOVERNING EXPUNCTION UNDER SECTION 7 ARE
7 COMPLETED. IF AN INDIVIDUAL WHO IS REQUIRED TO BE NOTIFIED UNDER
8 THIS SUBSECTION DOES NOT REQUEST EXPUNCTION WITHIN 14 DAYS, THE
9 PROCEDURES FOR RELEASE OF SPECIFIED INFORMATION UNDER SECTIONS 7C
10 TO 7I SHALL BE FOLLOWED, AND THE INDIVIDUAL DOES NOT HAVE A RIGHT
11 TO APPEAL THE DECISION TO RELEASE.

12 SEC. 7H. (1) BEFORE THE RELEASE OF SPECIFIED INFORMATION
13 UNDER SECTION 7D AND EXCEPT AS PROVIDED IN SECTION 7G, AN INDI-
14 VIDUAL REQUIRED TO BE NOTIFIED UNDER SECTION 7G MAY APPEAL THE
15 DIRECTOR'S DECISION TO THE CIRCUIT COURT. IF AN APPEAL IS FILED
16 AND THE DEPARTMENT NOTIFIED BEFORE THE RELEASE, THE SPECIFIED
17 INFORMATION SHALL NOT BE RELEASED UNTIL THE DECISION TO RELEASE
18 IS UPHOLD BY THE CIRCUIT COURT. IF THE DIRECTOR DENIES A REQUEST
19 TO RELEASE SPECIFIED INFORMATION UNDER SECTION 7D, WITHIN 30 DAYS
20 AFTER NOTICE OF THE DENIAL, THE PERSON WHOSE REQUEST IS DENIED
21 MAY FILE AN APPEAL OF THE DENIAL WITH THE CIRCUIT COURT. THE
22 COURT SHALL UPHOLD A DECISION TO RELEASE OR TO DENY RELEASE OF
23 SPECIFIED INFORMATION UNLESS THE COURT FINDS THAT THE DIRECTOR'S
24 DECISION WAS AN ABUSE OF THE DIRECTOR'S DISCRETION BASED UPON THE
25 CRITERIA FOR RELEASING OR NOT RELEASING SPECIFIED INFORMATION
26 PRESCRIBED BY SECTIONS 7C TO 7I.

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1 (2) PROCEEDINGS ON AN APPEAL FILED UNDER THIS SECTION ARE
2 CONFIDENTIAL, AND ANY RECORD OF THESE PROCEEDINGS SHALL NOT BE
3 RELEASED UNLESS THE COURT UPHOLDS A DECISION TO RELEASE SPECIFIED
4 INFORMATION OR REVERSES THE DENIAL OF A REQUEST FOR RELEASE. THE
5 COURT SHALL CONDUCT ITS REVIEW SO THAT A PERSON WHOSE REQUEST FOR
6 SPECIFIED INFORMATION WAS DENIED DOES NOT HAVE ACCESS TO THAT
7 SPECIFIED INFORMATION DURING THE APPEAL PROCEEDINGS.

8 (3) IF THE COURT REVERSES THE DIRECTOR'S DECISION TO RELEASE
9 OR TO DENY RELEASE OF SPECIFIED INFORMATION IN AN APPEAL UNDER
10 THIS SECTION, THE COURT MAY ORDER THE DEPARTMENT TO PAY THE
11 APPELLANT'S COSTS AND REASONABLE ATTORNEY FEES THAT ARE RELATED
12 TO THE APPEAL.

13 SEC. 7I. (1) THE DEPARTMENT MAY CHARGE A FEE FOR A COPY OF
14 SPECIFIED INFORMATION RELEASED UNDER SECTION 7D IN THE SAME
15 MANNER THAT A PUBLIC BODY IS AUTHORIZED TO CHARGE A FEE UNDER
16 SECTION 4 OF THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL
17 15.234.

(2) SECTIONS 7C TO 7I SHALL NOT BE ENFORCED AND THE FAMILY
INDEPENDENCE AGENCY SHALL NOT UTILIZE OR IMPLEMENT THOSE PROVISIONS
UNLESS THE FAMILY INDEPENDENCE AGENCY CONSULTS WITH AND RECEIVES
ASSURANCES FROM THE FEDERAL GOVERNMENT, INCLUDING ANY NECESSARY
FEDERAL WAIVERS, THAT UTILIZATION AND IMPLEMENTATION OF THOSE
PROVISIONS DO NOT JEOPARDIZE THIS STATE'S RECEIPT OF FEDERAL MONEY.

18 SEC. 9A. THE AGENCY WITHIN THE DEPARTMENT THAT IS RESPONSI-
19 BLE FOR ADMINISTERING AND PROVIDING SERVICES UNDER THIS ACT SHALL
20 MAKE AN ANNUAL COMPREHENSIVE REPORT TO THE LEGISLATURE THAT
21 INCLUDES AT LEAST ALL OF THE FOLLOWING:

22 (A) STATISTICAL INFORMATION INCLUDING AT LEAST ALL OF THE
23 FOLLOWING:

24 (i) TOTAL REPORTS OF ABUSE AND NEGLECT INVESTIGATED UNDER
25 THIS ACT AND THE NUMBER THAT WERE SUBSTANTIATED AND
26 UNSUBSTANTIATED.

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1 (ii) CHARACTERISTICS OF PERPETRATORS OF ABUSE AND NEGLECT
2 AND THE CHILD VICTIMS SUCH AS AGE, SEX, RELATIONSHIP,
3 SOCIOECONOMIC STATUS, RACE, AND ETHNICITY.

4 (iii) THE OCCUPATION OR DESCRIPTION LISTED UNDER SECTION 3
5 IN WHICH THE INDIVIDUAL WHO MADE THE REPORT FITS, OR OTHER
6 DESCRIPTION IF THE INDIVIDUAL IS NOT WITHIN A GROUP REQUIRED TO
7 REPORT UNDER THIS ACT.

8 (iv) STATISTICS RELATING TO THE CENTRAL REGISTRY SUCH AS
9 NUMBER OF INDIVIDUALS AND THEIR CHARACTERISTICS.

10 (v) STATISTICS RELATING TO THE BASIS FOR DETERMINING THAT
11 REPORTED CASES OF ABUSE OR NEGLECT ARE UNSUBSTANTIATED.

12 (B) POLICY RELATED TO CHILD PROTECTIVE SERVICES INCLUDING,
13 BUT NOT LIMITED TO, MAJOR POLICY CHANGES AND COURT DECISIONS
14 AFFECTING THE ADMINISTRATION OF THIS ACT.

15 Sec. 18. (1) The department shall submit a petition for
16 authorization by the court under section 2(b) of chapter XIIA of
17 1939 PA 288, MCL 712A.2, if 1 or more of the following apply:

18 (a) The department determines that a parent, guardian, or
19 custodian, or a person who is 18 years of age or older and who
20 resides for any length of time in the child's home, has abused
21 the child or a sibling of the child and the abuse included 1 or
22 more of the following:

23 (i) Abandonment of a young child.

24 (ii) Criminal sexual conduct involving penetration,
25 attempted penetration, or assault with intent to penetrate.

26 (iii) Battering, torture, or other severe physical abuse.

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1 (iv) Loss or serious impairment of an organ or limb.

2 (v) Life threatening injury.

3 (vi) Murder or attempted murder.

4 (b) THE DEPARTMENT DETERMINES THAT THERE IS RISK OF HARM TO
5 THE CHILD AND EITHER OF THE FOLLOWING IS TRUE:

6 (i) The parent's rights to another child were terminated as
7 a result of proceedings under section 2(b) of chapter XIIIA of
8 1939 PA 288, MCL 712A.2, or a similar law of another state.

9 (ii) ~~(c)~~ The parent's rights to another child were volun-
10 tarily terminated following the initiation of proceedings under
11 section 2(b) of chapter XIIIA of 1939 PA 288, MCL 712A.2, or a
12 similar law of another state.

13 (2) In a petition submitted as required by subsection (1),
14 IF A PARENT IS A SUSPECTED PERPETRATOR OR IS SUSPECTED OF PLACING
15 THE CHILD AT AN UNREASONABLE RISK OF HARM DUE TO THE PARENT'S
16 FAILURE TO TAKE REASONABLE STEPS TO INTERVENE TO ELIMINATE THAT
17 RISK, the family independence agency shall include a request for
18 termination of parental rights at the initial dispositional hear-
19 ing as authorized under section 19b of chapter XIIIA of 1939 PA
20 288, MCL 712A.19b.

21 (3) If the department is considering petitioning for termi-
22 nation of parental rights at the initial dispositional hearing as
23 authorized under section 19b of chapter XIIIA of 1939 PA 288, MCL
24 712A.19b, even though the facts of the child's case do not
25 require departmental action under subsection (1), the department
26 shall hold a conference among the appropriate agency personnel to
27 agree upon the course of action. The department shall notify the

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1 attorney representing the child of the time and place of the
2 conference, and the attorney may attend. If an agreement is not
3 reached at this conference, the department director or the
4 director's designee shall resolve the disagreement after consult-
5 ing the attorneys representing both the department and the
6 child.

7 Enacting section 1. 1998 PA 383 is repealed.

8 Enacting section 2. Sections 2, 5, and 7 of the child pro-
9 tection law, 1975 PA 238, MCL 722.622, 722.625, and 722.627, as
10 amended by this amendatory act, take effect April 1, 1999.

11 Enacting section 3. Sections 7c, 7d, 7e, 7f, 7g, 7h, 7i,
12 and 9a of the child protection law, 1975 PA 238, as added by this
13 amendatory act, take effect April 1, 1999.