



HOUSE BILL No. 6158

November 28, 2000, Introduced by Rep. Brewer and referred to the Committee on Family and Children Services.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending section 748a (MCL 330.1748a), as added by 1998 PA
497.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 748a. (1) If there is a compelling need for mental
2 health records or information to determine whether child abuse or
3 child neglect has occurred or to take action to protect a minor
4 where there may be a substantial risk of harm, a family indepen-
5 dence agency caseworker or administrator directly involved in the
6 child abuse or neglect investigation shall FILE A PETITION IN
7 CIRCUIT COURT REQUESTING AN IN CAMERA HEARING ON WHETHER THERE IS
8 A COMPELLING NEED FOR THE MENTAL HEALTH RECORDS OR INFORMATION.
9 IF THE COURT, AFTER AN IN CAMERA REVIEW OF THE INVESTIGATION
10 FINDINGS PRESENTED BY THE FAMILY INDEPENDENCE AGENCY, FINDS THAT

1 THERE IS A COMPELLING NEED FOR THE MENTAL HEALTH RECORDS OR
2 INFORMATION, IT SHALL REQUIRE DISCLOSURE OF THOSE RECORDS OR
3 INFORMATION. THE FAMILY INDEPENDENCE AGENCY CASEWORKER OR ADMIN-
4 ISTRATOR SHALL notify a mental health professional that a child
5 abuse or neglect investigation has been initiated involving a
6 person who has received services from the mental health profes-
7 sional and shall request in writing mental health records and
8 information that are pertinent to that investigation. Upon
9 receipt of this notification and request, the mental health pro-
10 fessional shall review all mental health records and information
11 in the mental health professional's possession to determine if
12 there are mental health records or information that is pertinent
13 to that investigation. Within 14 days after receipt of a request
14 made under this subsection, the mental health professional shall
15 release those pertinent mental health records and information to
16 the caseworker or administrator directly involved in the child
17 abuse or neglect investigation.

18 (2) The following privileges do not apply to mental health
19 records or information to which access is given under this
20 section:

21 (a) The physician-patient privilege created in section 2157
22 of the revised judicature act of 1961, 1961 PA 236,
23 MCL 600.2157.

24 (b) The dentist-patient privilege created in section 16648
25 of the public health code, 1978 PA 368, MCL 333.16648.

1 (c) The licensed professional counselor-client and limited
2 licensed counselor-client privilege created in section 18117 of
3 the public health code, 1978 PA 368, MCL 333.18117.

4 (d) The psychologist-patient privilege created in section
5 18237 of the public health code, 1978 PA 368, MCL 333.18237.

6 (e) Any other health professional-patient privilege created
7 or recognized by law.

8 (3) To the extent not protected by the immunity conferred by
9 1964 PA 170, MCL 691.1401 to 691.1415, an individual who in good
10 faith gives access to mental health records or information under
11 this section is immune from civil or administrative liability
12 arising from that conduct, unless the conduct was gross negli-
13 gence or willful and wanton misconduct.

14 (4) A duty under this act relating to child abuse and
15 neglect does not alter a duty imposed under another statute,
16 including the child protection law, 1975 PA 238, MCL 722.621 to
17 722.638, regarding the reporting or investigation of child abuse
18 or neglect.