

HOUSE BILL No. 6567

October 15, 2008, Introduced by Rep. Sheen and referred to the Committee on Families and Children's Services.

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending section 7 (MCL 722.627), as amended by 2006 PA 621.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 (2) Unless made public as specified information released under
4 section 7d, a written report, document, or photograph filed with
5 the department as provided in this act is a confidential record
6 available only to 1 or more of the following:

7 (a) A legally mandated public or private child protective
8 agency investigating a report of known or suspected child abuse or
9 neglect or a legally mandated public or private child protective

1 agency or foster care agency prosecuting a disciplinary action
2 against its own employee involving child protective services or
3 foster records.

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

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

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

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

18 (f) A person named in the report or record as a perpetrator or
19 alleged perpetrator of the child abuse or neglect or a victim who
20 is an adult at the time of the request, if the identity of the
21 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 necessary
25 to conduct the grand jury's official business.

26 (i) A person, agency, or organization engaged in a bona fide
27 research or evaluation project. The person, agency, or organization

1 shall not release information identifying a person named in the
2 report or record unless that person's written consent is obtained.
3 The person, agency, or organization shall not conduct a personal
4 interview with a family without the family's prior consent and
5 shall not disclose information that would identify the child or the
6 child's family or other identifying information. The department
7 director may authorize the release of information to a person,
8 agency, or organization described in this subdivision if the
9 release contributes to the purposes of this act and the person,
10 agency, or organization has appropriate controls to maintain the
11 confidentiality of personally identifying information for a person
12 named in a report or record made under this act.

13 (j) A lawyer-guardian ad litem or other attorney appointed as
14 provided by section 10.

15 (k) A child placing agency licensed under 1973 PA 116, MCL
16 722.111 to 722.128, for the purpose of investigating an applicant
17 for adoption, a foster care applicant or licensee or an employee of
18 a foster care applicant or licensee, an adult member of an
19 applicant's or licensee's household, or other persons in a foster
20 care or adoptive home who are directly responsible for the care and
21 welfare of children, to determine suitability of a home for
22 adoption or foster care. The child placing agency shall disclose
23 the information to a foster care applicant or licensee under 1973
24 PA 116, MCL 722.111 to 722.128, or to an applicant for adoption.

25 (l) Family division of circuit court staff authorized by the
26 court to investigate foster care applicants and licensees,
27 employees of foster care applicants and licensees, adult members of

1 the applicant's or licensee's household, and other persons in the
2 home who are directly responsible for the care and welfare of
3 children, for the purpose of determining the suitability of the
4 home for foster care. The court shall disclose this information to
5 the applicant or licensee.

6 (m) Subject to section 7a, a standing or select committee or
7 appropriations subcommittee of either house of the legislature
8 having jurisdiction over child protective services matters.

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

11 (o) A child fatality review team established under section 7b
12 and authorized under that section to investigate and review a child
13 death.

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

17 (q) A citizen review panel established by the department.
18 Access under this subdivision is limited to information the
19 department determines is necessary for the panel to carry out its
20 prescribed duties.

21 (r) A child care regulatory agency.

22 (s) A foster care review board for the purpose of meeting the
23 requirements of 1984 PA 422, MCL 722.131 to 722.139a.

24 (t) A local friend of the court office, subject to the
25 provisions of subsection (3) and sections 5 and 13, if there is a
26 compelling need for child protective services records or
27 information to determine custody or parenting time issues regarding

1 a child. A local friend of the court office investigator,
2 caseworker, or administrator directly involved in the custody
3 investigation shall notify the appropriate department or child
4 protective services local or central office that a child custody or
5 parenting time investigation has been initiated involving a family
6 and shall request in writing child protective services records and
7 information that are pertinent to that investigation. Upon receipt
8 of this notification and request, the local office of child
9 protective services supervisor shall review child protective
10 services information in the local office's possession to determine
11 if there are child protective services records or information that
12 is pertinent to that investigation. Within 14 days after receipt of
13 a request made under this subdivision, the child protective
14 services local office shall release the pertinent child protective
15 services records and information to the investigator, caseworker,
16 or administrator directly involved in the child custody or
17 parenting time investigation. Child protective services is further
18 authorized to report to the local friend of the court office any
19 situation in which a parent, more than 3 times within 1 year or on
20 5 cumulative reports over several years, made unfounded reports to
21 child protective services regarding alleged child abuse or neglect
22 of his or her child.

23 (3) Subject to subsection (9), a person or entity to whom
24 information described in subsection (2) is disclosed shall make the
25 information available only to a person or entity described in
26 subsection (2). This subsection does not require a court proceeding
27 to be closed that otherwise would be open to the public.

1 (4) If the department classifies a report of suspected child
2 abuse or neglect as a central registry case, the department shall
3 maintain a record in the central registry. ~~and, within~~ **NO PERSON,**
4 **DEPARTMENT, OR AUTHORITY SHALL MAINTAIN A RECORD OR PLACE THE NAME**
5 **OF ANY PERSON ON THE CENTRAL REGISTRY OR ANY OTHER INTERNAL OR**
6 **EXTERNAL REGISTRY, UNLESS THE PERSON BEING PLACED ON THE REGISTRY**
7 **HAS BEEN CONVICTED OF CHILD ABUSE, CRIMINAL SEXUAL CONDUCT WITH A**
8 **CHILD, OR CONTRIBUTING TO THE NEGLECT OF A CHILD IN A COURT OF LAW.**
9 **THE FUNDAMENTAL CONSTITUTIONAL RIGHT OF BEING INNOCENT UNTIL PROVEN**
10 **GUILTY MUST BE PRESERVED. WITHIN** 30 days after the classification,
11 **THE DEPARTMENT** shall notify in writing each person who is named in
12 the record as a perpetrator of the child abuse or neglect. The
13 notice shall set forth the person's right to request expunction of
14 the record and the right to a hearing if the department refuses the
15 request. The notice shall state that the record may be released
16 under section 7d. The notice shall not identify the person
17 reporting the suspected child abuse or neglect.

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

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

11 (7) If the investigation of a report conducted under this act
12 fails to disclose evidence of abuse or neglect, the information
13 identifying the subject of the report shall be expunged from the
14 central registry. If evidence of abuse or neglect exists, the
15 department shall maintain the information in the central registry
16 until the department receives reliable information that the
17 perpetrator of the abuse or neglect is dead.

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

24 (9) A member or staff member of a citizen review panel shall
25 not disclose identifying information about a specific child
26 protection case to an individual, partnership, corporation,
27 association, governmental entity, or other legal entity. A member

1 or staff member of a citizen review panel is a member of a board,
2 council, commission, or statutorily created task force of a
3 governmental agency for the purposes of section 7 of 1964 PA 170,
4 MCL 691.1407. Information obtained by a citizen review panel is not
5 subject to the freedom of information act, 1976 PA 442, MCL 15.231
6 to 15.246.

7 (10) An agency obtaining a confidential record under
8 subsection (2)(a) may seek an order from the court having
9 jurisdiction over the child or from the family division of the
10 Ingham county circuit court that allows the agency to disseminate
11 confidential child protective services or foster care information
12 to pursue sanctions for alleged dereliction, malfeasance, or
13 misfeasance of duty against an employee of the agency, to a
14 recognized labor union representative of the employee's bargaining
15 unit, or to an arbitrator or an administrative law judge who
16 conducts a hearing involving the employee's alleged dereliction,
17 malfeasance, or misfeasance of duty to be used solely in connection
18 with that hearing. Information released under this subsection shall
19 be released in a manner that maintains the greatest degree of
20 confidentiality while allowing review of employee performance.