

SENATE BILL NO. 1271

September 16, 1998, Introduced by Senators CISKY, MC MANUS, NORTH, HOFFMAN, ROGERS, SCHWARZ, STILLE, SHUGARS, BYRUM and CONROY and referred to the Committee on Families, Mental Health and Human Services.

A bill to amend 1975 PA 238, entitled "Child protection law," by amending section 7 (MCL 722.627), as amended by 1997 PA 168.

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 A written report, document, or photograph filed with the depart-
4 ment as provided in this act is a confidential record available
5 only to 1 or more of the following:

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

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

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

3 (d) A person legally authorized to place a child in protec-
4 tive custody when the person is confronted with a child whom the
5 person reasonably suspects may be abused or neglected and the
6 confidential record is necessary to determine whether to place
7 the child in protective custody.

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

13 (f) A person named in the report or record, if the identity
14 of the reporting person is protected as provided in section 5.

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

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

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

1 of information to a person, agency, or organization described in
2 this subdivision if the release contributes to the purposes of
3 this act and the person, agency, or organization has appropriate
4 controls to maintain the confidentiality of personally identify-
5 ing information for a person named in a report or record made
6 under this act.

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

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

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

1 (m) Subject to section 7a, a standing or select committee or
2 appropriations subcommittee of either house of the legislature
3 having jurisdiction over protective services matters for
4 children.

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

7 (o) A child fatality review team established under section
8 7b and authorized under that section to investigate and review a
9 child death.

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

13 (Q) A PERSON REQUESTING A CENTRAL REGISTRY CHECK FOR A
14 RECORD OF SUBSTANTIATED CHILD ABUSE OR NEGLECT UNDER THE
15 CHILD-RELATED EMPLOYMENT BACKGROUND CHECK ACT, TO THE EXTENT PRO-
16 VIDED IN THAT ACT.

17 (2) A person or entity to whom information described in sub-
18 section (1) is disclosed shall make the information available
19 only to a person or entity described in subsection (1). This
20 subsection does not require a court proceeding to be closed that
21 otherwise would be open to the public.

22 (3) If a report of suspected child abuse or neglect is sub-
23 stantiated, the department shall maintain a record in the central
24 registry and, within 30 days after the substantiation, shall
25 notify in writing each individual ~~who is~~ named in the record as
26 a perpetrator of the child abuse or neglect. The notice shall
27 set forth the individual's right to request expunction of the

1 record and the right to a hearing if the department refuses the
2 request. The notice shall not identify the person reporting the
3 suspected child abuse or neglect.

4 (4) A person who is the subject of a report or record made
5 under this act may request the department to amend an inaccurate
6 report or record from the central registry and local office
7 file. A person who is the subject of a report or record made
8 under this act may request the department to expunge from the
9 central registry a report or record in which no relevant and
10 accurate evidence of abuse or neglect is found to exist. A
11 report or record filed in a local office file is not subject to
12 expunction except as the department authorizes, when considered
13 in the best interest of the child.

14 (5) If the department refuses a request for amendment or
15 expunction under subsection (4), or fails to act within 30 days
16 after receiving the request as required under subsection (4), the
17 department shall hold a hearing to determine by a preponderance
18 of the evidence whether the report or record in whole or in part
19 should be amended or expunged from the central registry on the
20 grounds that the report or record is not relevant or accurate
21 evidence of abuse or neglect. The hearing shall be before a
22 hearing officer appointed by the department and shall be con-
23 ducted pursuant to the administrative procedures act of 1969,
24 1969 PA 306, MCL 24.201 to 24.328.

25 (6) If the investigation of a report conducted under this
26 act fails to disclose evidence of CHILD abuse or neglect, the
27 information identifying the subject of the report shall be

1 expunged from the central registry. If evidence of CHILD abuse
2 or neglect exists, the information identifying the subject of the
3 report shall be expunged when the child alleged to be abused or
4 neglected reaches the age of 18 ~~—~~ or 10 years after the report
5 is received by the department, whichever occurs later.

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

12 Enacting section 1. This amendatory act does not take
13 effect unless Senate Bill No. 1272
14 of the 89th Legislature is enacted
15 into law.