

# HOUSE BILL No. 5228

January 22, 2014, Introduced by Rep. Kurtz and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1974 PA 258, entitled  
"Mental health code,"  
by amending sections 261 and 285 (MCL 330.1261 and 330.1285), as  
added by 2012 PA 500, and by adding section 261a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 261. Records of the identity, diagnosis, prognosis, and  
2 treatment of an individual maintained in connection with the  
3 performance of a program, an approved service program, or an  
4 emergency medical service authorized or provided or assisted under  
5 this chapter are confidential and may be disclosed only for the  
6 purposes and under the circumstances authorized by section **261A**,  
7 262, or 263.

1           SEC. 261A. (1) IF THERE IS A COMPELLING NEED FOR SUBSTANCE USE  
2 DISORDER 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 DEPARTMENT OF  
5 HUMAN SERVICES CASEWORKER OR ADMINISTRATOR DIRECTLY INVOLVED IN THE  
6 CHILD ABUSE OR CHILD NEGLECT INVESTIGATION SHALL NOTIFY A SUBSTANCE  
7 USE DISORDER TREATMENT PROFESSIONAL THAT A CHILD ABUSE OR CHILD  
8 NEGLECT INVESTIGATION HAS BEEN INITIATED INVOLVING A PERSON WHO HAS  
9 RECEIVED SERVICES FROM THE SUBSTANCE USE DISORDER TREATMENT  
10 PROFESSIONAL AND SHALL REQUEST IN WRITING SUBSTANCE USE DISORDER  
11 TREATMENT RECORDS AND INFORMATION THAT ARE PERTINENT TO THAT  
12 INVESTIGATION. UPON RECEIPT OF THIS NOTIFICATION AND REQUEST, THE  
13 SUBSTANCE USE DISORDER TREATMENT PROFESSIONAL SHALL REVIEW ALL  
14 SUBSTANCE USE DISORDER TREATMENT RECORDS AND INFORMATION IN HIS OR  
15 HER POSSESSION TO DETERMINE IF THERE ARE SUBSTANCE USE DISORDER  
16 TREATMENT RECORDS OR INFORMATION THAT IS PERTINENT TO THAT  
17 INVESTIGATION. WITHIN 14 DAYS AFTER RECEIPT OF A REQUEST MADE UNDER  
18 THIS SUBSECTION, THE SUBSTANCE USE DISORDER TREATMENT PROFESSIONAL  
19 SHALL RELEASE THOSE PERTINENT SUBSTANCE USE DISORDER TREATMENT  
20 RECORDS AND INFORMATION TO THE DEPARTMENT OF HUMAN SERVICES  
21 CASEWORKER OR ADMINISTRATOR DIRECTLY INVOLVED IN THE CHILD ABUSE OR  
22 CHILD NEGLECT INVESTIGATION.

23           (2) THE FOLLOWING PRIVILEGES DO NOT APPLY TO SUBSTANCE USE  
24 DISORDER RECORDS OR INFORMATION TO WHICH ACCESS IS GIVEN UNDER THIS  
25 SECTION:

26           (A) THE PHYSICIAN-PATIENT PRIVILEGE CREATED IN SECTION 2157 OF  
27 THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.2157.

1 (B) THE DENTIST-PATIENT PRIVILEGE CREATED IN SECTION 16648 OF  
2 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16648.

3 (C) THE LICENSED PROFESSIONAL COUNSELOR-CLIENT AND LIMITED  
4 LICENSED COUNSELOR-CLIENT PRIVILEGE CREATED IN SECTION 18117 OF THE  
5 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.18117.

6 (D) THE PSYCHOLOGIST-PATIENT PRIVILEGE CREATED IN SECTION  
7 18237 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.18237.

8 (E) ANY OTHER HEALTH PROFESSIONAL-PATIENT PRIVILEGE CREATED OR  
9 RECOGNIZED BY LAW.

10 (3) TO THE EXTENT NOT PROTECTED BY THE IMMUNITY CONFERRED BY  
11 1964 PA 170, MCL 691.1401 TO 691.1419, AN INDIVIDUAL WHO IN GOOD  
12 FAITH GIVES ACCESS TO SUBSTANCE USE DISORDER RECORDS OR INFORMATION  
13 UNDER THIS SECTION IS IMMUNE FROM CIVIL OR ADMINISTRATIVE LIABILITY  
14 ARISING FROM THAT CONDUCT, UNLESS THE CONDUCT WAS GROSS NEGLIGENCE  
15 OR WILLFUL AND WANTON MISCONDUCT.

16 (4) A DUTY UNDER THIS ACT RELATING TO CHILD ABUSE AND CHILD  
17 NEGLECT DOES NOT ALTER A DUTY IMPOSED UNDER ANOTHER STATUTE,  
18 INCLUDING THE CHILD PROTECTION LAW, 1975 PA 238, MCL 722.621 TO  
19 722.638, REGARDING THE REPORTING OR INVESTIGATION OF CHILD ABUSE OR  
20 CHILD NEGLECT.

21 Sec. 285. Records of the diagnostic evaluation, psychiatric,  
22 psychological, social service care, and referral of an individual  
23 that are maintained in connection with the performance of an  
24 approved service program or emergency medical service authorized or  
25 provided under sections 276 to 286 are confidential and may only be  
26 disclosed in either of the following circumstances:

27 (a) For the purposes and under the circumstances expressly

1 authorized under section **261A**, 262, or 263.

2 (b) At the specific written request of a parole or probation  
3 officer seeking the information with regard to a parolee or  
4 probationer in the officer's charge who agrees to release this  
5 information.