

HOUSE BILL NO. 5610

March 20, 2024, Introduced by Reps. Pohutsky, Rheingans, Paiz, Young, Brenda Carter, Weiss, Byrnes, Hood, Breen, Arbit, Tsernoglou, Andrews and Morgan and referred to the Committee on Health Policy.

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 health
2 records or information to determine whether child abuse or child
3 neglect has occurred or to take action to protect a minor where
4 there may be a substantial risk of harm, a ~~family independence~~

1 ~~agency~~ **department** caseworker or administrator directly involved in
 2 the child abuse or **child** neglect investigation ~~shall~~ **must** notify a
 3 mental health professional that a child abuse or **child** neglect
 4 investigation has been initiated involving ~~a person~~ **an individual**
 5 who has received services from the mental health professional and
 6 ~~shall~~ **must** request in writing mental health records and information
 7 that are pertinent to that investigation. Upon receipt of this
 8 notification and request, the mental health professional ~~shall~~ **must**
 9 review all mental health records and information in the mental
 10 health professional's possession to determine if there are mental
 11 health records or information that is pertinent to that
 12 investigation. Within ~~14~~ **7** days after receipt of a request made
 13 under this subsection, the mental health professional ~~shall~~ **must**
 14 release those pertinent mental health records and information to
 15 the **department** caseworker or administrator directly involved in the
 16 child abuse or **child** neglect investigation.

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

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

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

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

26 (d) The psychologist-patient privilege created in section
 27 18237 of the public health code, 1978 PA 368, MCL 333.18237.

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

1 (3) To the extent not protected by the immunity conferred by
2 1964 PA 170, MCL 691.1401 to ~~691.1415~~, **691.1419**, an individual who
3 in good faith gives access to mental health records or information
4 under this section is immune from civil or administrative liability
5 arising from that conduct, unless the conduct was gross negligence
6 or willful and wanton misconduct.

7 (4) A duty under this act relating to child abuse and **child**
8 neglect does not alter a duty imposed under another statute,
9 including the child protection law, 1975 PA 238, MCL 722.621 to
10 722.638, regarding the reporting or investigation of child abuse or
11 **child** neglect.

12 Enacting section 1. This amendatory act does not take effect
13 unless Senate Bill No. ____ or House Bill No. 5611 (request no.
14 00318'23) of the 102nd Legislature is enacted into law.