

Act No. 305  
Public Acts of 2023  
Approved by the Governor  
December 12, 2023  
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**STATE OF MICHIGAN  
102ND LEGISLATURE  
REGULAR SESSION OF 2023**

Introduced by Senators Damoose, Chang, Irwin, Victory, Santana and Wojno

## **ENROLLED SENATE BILL No. 436**

AN ACT to amend 1975 PA 238, entitled “An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts,” by amending sections 7, 7b, and 7k (MCL 722.627, 722.627b, and 722.627k), section 7 as amended by 2022 PA 68, section 7b as amended by 2011 PA 89, and section 7k as added by 2011 PA 67.

*The People of the State of Michigan enact:*

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

(a) A legally mandated public or private child protective agency investigating a report of known or suspected child abuse or child neglect or a legally mandated public or private child protective agency or foster care agency prosecuting a disciplinary action against its own employee involving child protective services or foster care records.

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

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

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

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

(f) A person named in the report or record as a perpetrator or alleged perpetrator of the child abuse or child neglect or a victim who is an adult at the time of the request, if the identity of the reporting person is protected as provided in section 5.

(g) A court for the purposes of determining the suitability of a person as a minor's guardian or that otherwise determines that the information is necessary to decide an issue before the court, or in the event of a child's death, a court that had jurisdiction over that child under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(h) A grand jury that determines the information is necessary to conduct the grand jury's official business.

(i) A person, agency, or organization engaged in a bona fide research or evaluation project. The person, agency, or organization shall not release information identifying a person named in the report or record unless that person's written consent is obtained. The person, agency, or organization shall not conduct a personal interview with a family without the family's prior consent and shall not disclose information that would identify the child or the child's family or other identifying information. The department director may authorize release of information to a person, agency, or organization described in this subdivision if the release contributes to the purposes of this act and the person, agency, or organization has appropriate controls to maintain the confidentiality of personally identifying information for a person named in a report or record made under this act.

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

(k) A child placing agency licensed under 1973 PA 116, MCL 722.111 to 722.128, for the purpose of investigating an applicant for adoption, a foster care applicant or licensee or an employee of a foster care applicant or licensee, an adult member of an applicant's or licensee's household, or other person in a foster care or adoptive home who is directly responsible for the care and welfare of children, to determine suitability of a home for adoption or foster care. The child placing agency must disclose the information to a foster care applicant or licensee under 1973 PA 116, MCL 722.111 to 722.128, or to an applicant for adoption.

(l) Family division of circuit court staff authorized by the court to investigate foster care applicants and licensees, employees of foster care applicants and licensees, adult members of the applicant's or licensee's household, and any other person in the home who is directly responsible for the care and welfare of children, for the purpose of determining the suitability of the home for foster care. The court must disclose this information to the applicant or licensee.

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

(n) The child advocate appointed under the office of the child advocate act, 1994 PA 204, MCL 722.921 to 722.932.

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

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

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

(r) A child care regulatory agency.

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

(t) A local friend of the court office.

(u) A department employee actively representing himself or herself in a disciplinary action, a labor union representative who is actively representing a department employee in a disciplinary action, or an arbitrator or administrative law judge conducting a hearing involving a department employee's dereliction, malfeasance, or misfeasance of duty, for use solely in connection with that action or hearing. Information disclosed under this subdivision must be returned not later than 10 days after the conclusion of the action or hearing. A recipient must not receive further disclosures under this subdivision while he or she retains disclosed information beyond the deadline specified for return.

(v) A federal or state governmental agency that may, by law, conduct an audit or similar review of the department's activities under this act.

(w) A children's advocacy center in the course of providing services to a child alleged to have been the victim of child abuse or child neglect or to that child's family.

(x) A tribal representative, agency, or organization, including a multidisciplinary team, authorized by the Indian child's tribe, to care for, diagnose, treat, review, evaluate, or monitor active efforts regarding an Indian child, parent, or Indian custodian. As used in this subdivision, "active efforts", "Indian child", "Indian child's tribe", "Indian custodian", and "parent" mean those terms as defined in section 3 of chapter XIIB of the probate code of 1939, 1939 PA 288, MCL 712B.3.

(y) A child caring institution licensed under 1973 PA 116, MCL 722.111 to 722.128, for the purpose of investigating an applicant for employment or an employee of a child caring institution to determine suitability of the applicant or employee for initial or continued employment. The child caring institution must disclose the information to the applicant or employee.

(2) Subject to subsection (4), a person or entity to whom information described in subsection (1) is disclosed shall make the information available only to a person or entity described in subsection (1). This subsection does not require a court proceeding to be closed that otherwise would be open to the public.

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

(4) A member or staff member of a citizen review panel shall not disclose identifying information about a specific child protection case to an individual, partnership, corporation, association, governmental entity, or other legal entity. A member or staff member of a citizen review panel is a member of a board, council, commission, or statutorily created task force of a governmental agency for the purposes of section 7 of 1964 PA 170, MCL 691.1407. Information obtained by a citizen review panel is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) Documents, reports, or records authored by or obtained from another agency or organization shall not be released or open for inspection under subsection (1) unless required by other state or federal law, in response to an order issued by a judge, magistrate, or other authorized judicial officer, or unless the documents, reports, or records are requested for a child abuse or child neglect case or for a criminal investigation of a child abuse or child neglect case conducted by law enforcement.

(6) Notwithstanding subsection (1), information or records in the possession of the department or the department of licensing and regulatory affairs may be shared to the extent necessary for the proper functioning of the department or the department of licensing and regulatory affairs in administering child welfare or child care organization licensing under 1973 PA 116, MCL 722.111 to 722.128, or in an investigation conducted under section 43b of the social welfare act, 1939 PA 280, MCL 400.43b. Information or records shared under this subsection shall not be released by either the department or the department of licensing and regulatory affairs unless otherwise permitted under this act or other state or federal law. Neither the department nor the department of licensing and regulatory affairs shall release or open for inspection any document, report, or record authored by or obtained from another agency or organization unless 1 of the conditions of subsection (5) applies.

Sec. 7b. (1) Each county may have in place a standing child fatality review team. Two or more counties may appoint a single child fatality review team for those counties. The membership of a child fatality review team shall consist of at least all of the following:

(a) A county medical examiner or deputy county medical examiner appointed under 1953 PA 181, MCL 52.201 to 52.216.

(b) A representative of a local law enforcement agency.

(c) A representative of the department.

(d) The county prosecuting attorney or a designated assistant county prosecutor.

(e) A representative of the department of health and human services or a local health department.

(f) A representative of the local court.

(2) A child fatality review team established under subsection (1) shall review each child fatality occurring in the county or counties that established the child fatality review team.

(3) The department shall make available to each child fatality review team established under subsection (1) professional, interagency training and orientation on the review of child fatalities. The department shall make available, as necessary, training on specific types of child fatalities, investigation techniques, and prevention initiatives.

(4) The department shall establish a multiagency, multidisciplinary advisory committee to identify and make recommendations on policy and statutory changes pertaining to child fatalities and to guide statewide prevention, education, and training efforts.

(5) The advisory committee created under subsection (4) consists of the following:

(a) Two representatives of the department.

(b) Two representatives of the department of health and human services.

(c) One county medical examiner.

- (d) One representative of law enforcement.
- (e) One county prosecuting attorney.
- (f) The child advocate or his or her designee.
- (g) A representative of a state or local court.

(6) The citizen review panel shall review each child fatality that involves allegations of child abuse or child neglect for each child who, at the time of death or within the 12 months preceding the death, was under the court's jurisdiction under section 2(b) of chapter XIII A of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(7) Beginning December 31, 2012, and using the annual compilation of child fatalities reported by the state registrar under part 28 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899, and data received from the child fatality review teams established under subsection (1) and the citizen review panel established under subsection (6), the advisory committee established under subsection (4) shall author an annual report on child fatalities reviewed during the previous calendar year. The advisory committee shall include in the report, at a minimum, all of the following:

- (a) The total number of child fatalities and the type or cause of each child fatality.
- (b) The number of child fatalities that occurred while the child was in foster care.
- (c) The number of cases where the child's death occurred within 5 years after family preservation or family reunification.
- (d) Trends in child fatalities.

(8) The advisory committee established under subsection (4) shall break down the information required under subsection (7) by county or by groups of counties as described in subsection (1). The information contained in the report is public information. The advisory committee shall not include identifying information of persons named in the report. The advisory committee shall transmit the final report under subsection (7) to the department by December 31 of each year. Not less than 30 days and not more than 60 days after transmitting the report to the department, the department shall ensure publication of the report and transmit a copy to the governor and to the standing committees of the legislature with jurisdiction over matters pertaining to child protection.

(9) Except as provided in subsection (11), information obtained by a child fatality review team established under subsection (1) is confidential and may be disclosed by the child fatality review team only to the department, the child advocate, the county prosecutor's office, local law enforcement, or another child fatality review team. The information is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) An individual who is a member of a child fatality review team established under subsection (1) or of the advisory committee established under subsection (4) is a member of a board, council, commission, or statutorily created task force of a governmental agency for the purposes of section 7 of 1964 PA 170, MCL 691.1407.

(11) The department shall establish and maintain a registry of statistical information regarding children's deaths that shall be accessible to the public. The registry created in this section shall not disclose any identifying information and shall only include statistical information covering all of the following:

- (a) The number of children who died while under court jurisdiction for child abuse or neglect regardless of placement setting.
- (b) The number of children who died as a result of child abuse or neglect after a parent had 1 or more child protective services complaints within the 2 years preceding the child's death and the category dispositions of those complaints.
- (c) The total number of children as identified in subdivisions (a) and (b) who died in the preceding year.
- (d) The child protective services disposition of the child fatality.

Sec. 7k. (1) If a child dies who is under the court's jurisdiction under section 2(b) of chapter XIII A of the probate code of 1939, 1939 PA 288, MCL 712A.2, the department shall provide notification in writing or electronically not later than 1 business day to the court that had jurisdiction over the child under section 2(b) of chapter XIII A of the probate code of 1939, 1939 PA 288, MCL 712A.2, at the time of the child's death, the state senator and state representative who represent the district in which that court is located, and the child advocate.

(2) The department shall notify the child advocate within 1 business day when a child dies and any of the following apply:

- (a) The child died during an active child protective services investigation or an open child protective services case.
- (b) The department received a prior child protective services complaint concerning the child's caretaker.
- (c) The child's death may have resulted from child abuse or child neglect.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 432 of the 102nd Legislature is enacted into law.



Secretary of the Senate



Clerk of the House of Representatives

Approved \_\_\_\_\_

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Governor