

SUBSTITUTE FOR
SENATE BILL NO. 1032

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending sections 7 and 10 (MCL 722.627 and 722.630),
section 7 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.

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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

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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~~ AN ATTORNEY appointed ~~as legal counsel~~ FOR
8 THE CHILD as prescribed in section 10.

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

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

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

18 (3) If a report of suspected child abuse or neglect is sub-
19 stantiated, the department shall maintain a record in the central
20 registry and, within 30 days after the substantiation, shall
21 notify in writing each individual who is named in the record as a
22 perpetrator of the child abuse or neglect. The notice shall set
23 forth the individual's right to request expunction of the record
24 and the right to a hearing if the department refuses the
25 request. The notice shall not identify the person reporting the
26 suspected child abuse or neglect.

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

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

22 (6) If the investigation of a report conducted under this
23 act fails to disclose evidence of abuse or neglect, the informa-
24 tion identifying the subject of the report shall be expunged from
25 the central registry. If evidence of abuse or neglect exists,
26 the information identifying the subject of the report shall be
27 expunged when the child alleged to be abused or neglected reaches

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1 the age of 18, or 10 years after the report is received by the
2 department, whichever occurs later.

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

9 Sec. 10. ~~The court, in~~ IN every case filed under this act
10 in which judicial proceedings are necessary, THE COURT shall
11 appoint A GUARDIAN AD LITEM OR legal counsel, ~~to represent~~ OR
12 BOTH, FOR the child IN THE SAME MANNER AS A GUARDIAN AD LITEM OR
13 LEGAL COUNSEL, OR BOTH, ARE APPOINTED FOR A CHILD UNDER
14 SECTIONS 17C AND 17D OF CHAPTER XIIIA OF 1939 PA 288, MCL 712A.17C
15 AND 712A.17D. ~~The legal counsel, in general, shall be charged~~
16 ~~with the representation of the child's best interests. To that~~
17 ~~end, the attorney shall make further investigation as he deems~~
18 ~~necessary to ascertain the facts, interview witnesses, examine~~
19 ~~witnesses in both the adjudicatory and dispositional hearings,~~
20 ~~make recommendations to the court, and participate in the pro-~~
21 ~~ceedings to competently represent the child.~~ A GUARDIAN AD LITEM
22 OR LEGAL COUNSEL APPOINTED UNDER THIS SECTION MUST BE AN
23 ATTORNEY. THE GUARDIAN AD LITEM HAS THE SAME POWERS AND DUTIES,
24 AND SHALL REPRESENT THE CHILD IN THE SAME MANNER, AS AN ATTORNEY
25 APPOINTED TO THE SAME REPRESENTATIVE POSITION FOR A CHILD UNDER
26 SECTIONS 17C AND 17D OF CHAPTER XIIIA OF 1939 PA 288, MCL 712A.17C
27 AND 712A.17D.

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1 Enacting section 1. This amendatory act does not take
2 effect unless Senate Bill No. 954 of the 89th Legislature is
3 enacted into law.