

SENATE BILL NO. 504

May 14, 1997, Introduced by Senator BENNETT 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 1995 PA 225, and by adding section 7b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) The department shall maintain a central regis-
2 try to carry out the intent of this act. ~~THE DEPARTMENT~~
3 SHALL PLACE IN THE CENTRAL REGISTRY A written report, document,
4 or photograph filed with OR OBTAINED BY the department as
5 ~~provided in~~ PART OF AN INVESTIGATION CONDUCTED UNDER this act
6 THAT IS NOT COMPLETED. THE INFORMATION DESCRIBED IN THIS
7 SUBSECTION is a confidential record available only to 1 or more
8 of the following:

1 (a) A legally mandated public or private child protective
2 agency investigating a report of known or suspected child abuse
3 or neglect.

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

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

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

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

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

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

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

24 (i) A person, agency, or organization engaged in a bona fide
25 research or evaluation project, except information identifying a
26 person named in the report or record shall not be made available
27 unless the department has obtained that person's written

1 consent. The person, agency, or organization shall not conduct a
2 personal interview with a family without the family's prior con-
3 sent and shall not disclose information that would identify the
4 child or the child's family or other identifying information.

5 (j) A person appointed as legal counsel as prescribed in
6 section 10.

7 (k) A child placing agency licensed under ~~Act No. 116 of~~
8 ~~the Public Acts of 1973, being sections 722.111 to 722.128 of the~~
9 ~~Michigan Compiled Laws~~ 1973 PA 116, MCL 722.111 TO 722.128, for
10 the purpose of investigating an applicant for adoption, a foster
11 care applicant or licensee or an employee of a foster care appli-
12 cant or licensee, an adult member of an applicant's or licensee's
13 household, or other persons in a foster care or adoptive home who
14 are directly responsible for the care and welfare of children, to
15 determine suitability of a home for adoption or foster care. The
16 child placing agency shall disclose the information to a foster
17 care applicant or licensee under ~~Act No. 116 of the Public Acts~~
18 ~~of 1973~~ 1973 PA 116, MCL 722.111 TO 722.128, or to an applicant
19 for 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.

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, ~~Act No. 204 of the Public Acts of 1994, being~~
7 ~~sections 722.921 to 722.935 of the Michigan Compiled Laws 1994~~
8 PA 204, MCL 722.921 TO 722.935.

9 (o) ~~Child~~ A CHILD fatality review ~~teams~~ TEAM ESTABLISHED
10 UNDER SECTION 7B AND authorized ~~by the department~~ UNDER THAT
11 SECTION to investigate and review A child ~~deaths~~ DEATH. ~~The~~
12 ~~department shall not authorize a child fatality review team to~~
13 ~~investigate and review a child death unless the membership of the~~
14 ~~child fatality review team consists of at least all of the~~
15 following:

16 (i) ~~A county medical examiner or deputy county medical~~
17 ~~examiner.~~

18 (ii) ~~A representative of a local law enforcement agency.~~

19 (iii) ~~A representative of the department.~~

20 (iv) ~~The county prosecuting attorney or his or her~~
21 ~~designee.~~

22 (v) ~~A representative of the department of public health or a~~
23 ~~local health department.~~

24 (p) A county medical examiner or deputy county medical
25 examiner appointed under ~~Act No. 181 of the Public Acts of 1953,~~
26 ~~being sections 52.201 to 52.216 of the Michigan Compiled Laws~~
27 1953 PA 181, MCL 52.201 TO 52.216, for the purpose of carrying

1 out his or her duties under ~~Act No. 181 of the Public Acts of~~
2 ~~1953~~ THAT ACT.

3 (2) A person or entity to whom ~~a report, document, or~~
4 ~~photograph~~ INFORMATION DESCRIBED IN SUBSECTION (1) is ~~made~~
5 ~~available~~ DISCLOSED shall make the ~~report, document, or~~
6 ~~photograph~~ INFORMATION available only to a person or entity
7 described in subsection (1). This subsection ~~shall not be con-~~
8 ~~strued to~~ DOES NOT require a court proceeding to be closed that
9 otherwise would be open to the public.

10 (3) If a report of suspected child abuse or neglect is sub-
11 stantiated, the department shall maintain a record in the central
12 registry and, within 30 days after the substantiation, shall
13 notify in writing each individual who is named in the record as a
14 perpetrator of the child abuse or neglect. The notice shall set
15 forth the individual's right to request expunction of the record
16 and the right to a hearing if the department refuses the
17 request. The notice shall not identify the person reporting the
18 suspected child abuse or neglect.

19 (4) A person SUSPECTED OF CHILD ABUSE OR NEGLECT who is the
20 subject of a report or record made under this act may request the
21 department to amend an inaccurate report or record from the cen-
22 tral registry and local office file, ~~— A person who is the~~
23 ~~subject of a report or record made under this act~~ AND may
24 request the department to expunge from the central registry a
25 report or record in which no relevant and accurate evidence of
26 abuse or neglect is found to exist. A report or record filed in
27 a local office file is not subject to expunction except as the

1 department authorizes, ~~when considered~~ AND THEN ONLY IF THE
2 DEPARTMENT CONSIDERS THE EXPUNCTION TO BE in the best interest of
3 the child.

4 (5) If the department refuses a request for amendment or
5 expunction UNDER SUBSECTION (4), or fails to act within 30 days
6 after receiving the request AS REQUIRED UNDER SUBSECTION (4), the
7 ~~person~~ DEPARTMENT shall ~~be granted~~ HOLD a hearing to deter-
8 mine by a preponderance of the evidence whether the report or
9 record in whole or in part should be amended or expunged from the
10 central registry on the grounds that the report or record is not
11 relevant or accurate evidence of abuse or neglect. The hearing
12 shall be before a hearing officer appointed by the department and
13 shall be conducted pursuant to the administrative procedures act
14 of 1969, ~~Act No. 306 of the Public Acts of 1969, being~~
15 ~~sections 24.201 to 24.328 of the Michigan Compiled Laws~~ 1969 PA
16 306, MCL 24.201 TO 24.328.

17 (6) If the investigation of a report conducted under this
18 act fails to disclose evidence of abuse or neglect, the informa-
19 tion identifying the INDIVIDUAL SUSPECTED OF CHILD ABUSE OR
20 NEGLECT WHO IS THE subject of the report shall be expunged from
21 the central registry. If evidence of abuse or neglect exists,
22 the information identifying the INDIVIDUAL SUSPECTED OF CHILD
23 ABUSE OR NEGLECT WHO IS THE subject of the report shall be
24 expunged when the child alleged to be abused or neglected reaches
25 the age of 18, or 10 years after the report is received by the
26 department, whichever occurs later.

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

7 SEC. 7B. (1) BY JANUARY 1, 1999, EACH COUNTY SHALL HAVE IN
8 PLACE A STANDING CHILD FATALITY REVIEW TEAM. TWO OR MORE COUN-
9 TIES MAY APPOINT A SINGLE CHILD FATALITY REVIEW TEAM FOR THOSE
10 COUNTIES. THE MEMBERSHIP OF A CHILD FATALITY REVIEW TEAM SHALL
11 CONSIST OF AT LEAST ALL OF THE FOLLOWING:

12 (A) A COUNTY MEDICAL EXAMINER OR DEPUTY COUNTY MEDICAL
13 EXAMINER APPOINTED UNDER 1963 PA 181, MCL 52.201 TO 52.216.

14 (B) A REPRESENTATIVE OF A LOCAL LAW ENFORCEMENT AGENCY.

15 (C) A REPRESENTATIVE OF THE DEPARTMENT.

16 (D) THE COUNTY PROSECUTING ATTORNEY OR HIS OR HER DESIGNEE.

17 (E) A REPRESENTATIVE OF THE DEPARTMENT OF COMMUNITY HEALTH
18 OR A LOCAL HEALTH DEPARTMENT.

19 (2) A CHILD FATALITY REVIEW TEAM ESTABLISHED UNDER SUBSEC-
20 TION (1) SHALL INVESTIGATE EACH CHILD FATALITY OCCURRING IN THE
21 COUNTY OR COUNTIES THAT ESTABLISHED THE CHILD FATALITY REVIEW
22 TEAM. IF THE CHILD FATALITY REVIEW TEAM DETERMINES THAT A CHILD
23 FATALITY WAS CAUSED BY AN ACT OR OMISSION OF 1 OR MORE INDIVIDU-
24 ALS, THE CHILD FATALITY REVIEW TEAM SHALL REPORT THAT FACT TO THE
25 FAMILY INDEPENDENCE AGENCY AND TO THE CHILDREN'S OMBUDSMAN.

26 (3) THE DEPARTMENT SHALL MAKE AVAILABLE TO EACH CHILD
27 FATALITY REVIEW TEAM ESTABLISHED UNDER SUBSECTION (1)

1 PROFESSIONAL, INTERAGENCY TRAINING AND ORIENTATION ON THE REVIEW
2 OF CHILD FATALITIES. THE DEPARTMENT SHALL MAKE AVAILABLE, AS
3 NECESSARY, TRAINING ON SPECIFIC TYPES OF CHILD FATALITIES, INVES-
4 TIGATION TECHNIQUES, AND PREVENTION INITIATIVES.

5 (4) THE DEPARTMENT SHALL ESTABLISH A MULTIAGENCY, MULTIDIS-
6 CIPLINARY ADVISORY COMMITTEE TO IDENTIFY AND MAKE RECOMMENDATIONS
7 ON POLICY AND STATUTORY CHANGES PERTAINING TO CHILD FATALITIES
8 AND TO GUIDE STATEWIDE PREVENTION, EDUCATION, AND TRAINING
9 EFFORTS.

10 (5) THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING:

11 (A) TWO REPRESENTATIVES OF THE FAMILY INDEPENDENCE AGENCY.

12 (B) TWO REPRESENTATIVES OF THE DEPARTMENT OF COMMUNITY
13 HEALTH.

14 (C) ONE COUNTY MEDICAL EXAMINER.

15 (D) ONE REPRESENTATIVE OF LAW ENFORCEMENT.

16 (E) ONE COUNTY PROSECUTING ATTORNEY.

17 (F) THE CHILDREN'S OMBUDSMAN OR HIS OR HER DESIGNEE.

18 (5) USING THE ANNUAL COMPILATION OF CHILD FATALITIES
19 REPORTED BY THE STATE REGISTRAR UNDER PART 28 OF THE PUBLIC
20 HEALTH CODE, 1978 PA 368, MCL 333.2801 TO 333.2899, AND DATA
21 RECEIVED FROM THE CHILD FATALITY REVIEW TEAMS ESTABLISHED UNDER
22 SUBSECTION (1), THE ADVISORY COMMITTEE ESTABLISHED UNDER SUBSEC-
23 TION (4) SHALL PUBLISH AN ANNUAL REPORT ON CHILD FATALITIES. THE
24 ADVISORY COMMITTEE SHALL INCLUDE IN THE REPORT, AT A MINIMUM, ALL
25 OF THE FOLLOWING:

26 (A) THE TOTAL NUMBER OF CHILD FATALITIES AND THE TYPE OR
27 CAUSE OF EACH CHILD FATALITY.

1 (B) THE NUMBER OF CHILD FATALITIES THAT OCCURRED WHILE THE
2 CHILD WAS IN FOSTER CARE.

3 (C) THE NUMBER OF CASES WHERE THE CHILD'S DEATH OCCURRED
4 WITHIN 5 YEARS AFTER FAMILY PRESERVATION OR FAMILY
5 REUNIFICATION.

6 (D) TRENDS IN CHILD FATALITIES.

7 (6) THE ADVISORY COMMITTEE ESTABLISHED UNDER SUBSECTION (4)
8 SHALL BREAK DOWN THE INFORMATION REQUIRED UNDER SUBSECTION (5) BY
9 COUNTY OR BY GROUPS OF COUNTIES AS DESCRIBED IN SUBSECTION (1).
10 THE INFORMATION CONTAINED IN THE REPORT IS PUBLIC INFORMATION.
11 THE ADVISORY COMMITTEE SHALL NOT INCLUDE IN THE REPORT THE NAME
12 OF AN INDIVIDUAL WHO WAS RESPONSIBLE FOR THE HEALTH AND WELFARE
13 OF A DECEASED CHILD. THE ADVISORY COMMITTEE SHALL TRANSMIT A
14 COPY OF THE REPORT REQUIRED UNDER SUBSECTION (5) TO THE GOVERNOR
15 AND TO THE STANDING COMMITTEES OF THE LEGISLATURE WITH JURISDIC-
16 TION OVER MATTERS PERTAINING TO CHILD PROTECTION.

17 (7) INFORMATION OBTAINED BY A CHILD FATALITY REVIEW TEAM
18 ESTABLISHED UNDER SUBSECTION (1) IS CONFIDENTIAL AND MAY BE DIS-
19 CLOSED BY THE CHILD FATALITY REVIEW TEAM ONLY TO THE DEPARTMENT,
20 TO THE CHILDREN'S OMBUDSMAN, TO THE OFFICE OF A MEMBER OF THE
21 CHILD FATALITY REVIEW TEAM, OR TO ANOTHER CHILD FATALITY REVIEW
22 TEAM. THE INFORMATION IS NOT SUBJECT TO THE FREEDOM OF INFORMA-
23 TION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

24 (8) AN INDIVIDUAL WHO IS A MEMBER OF A CHILD FATALITY REVIEW
25 TEAM ESTABLISHED UNDER SUBSECTION (1) OR OF THE ADVISORY COMMIT-
26 TEE ESTABLISHED UNDER SUBSECTION (5) IS IMMUNE FROM TORT
27 LIABILITY FOR INJURIES TO PERSONS OR DAMAGES TO PROPERTY CAUSED

1 BY THE MEMBER WHILE ACTING ON BEHALF OF THE CHILD FATALITY REVIEW
2 TEAM OR THE ADVISORY COMMITTEE, AS PROVIDED IN SECTION 7 OF 1964
3 PA 170, MCL 691.1407.