

---

Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

**SFA****BILL ANALYSIS**

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

---

Senate Bill 1211 (Substitute S-1 as passed by the Senate)  
Sponsor: Senator Gary Peters  
Committee: Families, Mental Health and Human Services

Date Completed: 8-3-98

### **CONTENT**

**The bill would amend the Public Health Code to require the Department of Community Health (DCH) and health professionals to release to a caseworker information about a child who was the subject of an abuse or neglect investigation, under certain circumstances.**

#### **DCH Disclosure**

Currently, the DCH is required to establish procedures to protect the confidentiality of, and regulate the disclosure of, data and records contained in a departmental data system or system of records. The procedures must specify the data contained in a system that may not be disclosed unless items identifying a person are deleted.

The bill provides that, notwithstanding this requirement, if there were a compelling need for records or information to determine whether child abuse or neglect had occurred or to take action to protect a child where there could be substantial risk of harm, the DCH would have to give access to a child protective services caseworker directly involved in the investigation, or the caseworker's administrator, to records and information pertaining to a child who was a subject of a child abuse or neglect investigation. A record or information disclosed under this provision would have to include the identity of the individual to whom the record or information pertained.

The DCH would have to provide the access only upon receipt of a written request from a child protective services caseworker directly involved in the investigation, or the caseworker's administrator, and would have to provide the access within 14 calendar days after the record holder received the written request. The DCH would have to provide the access regardless of the consent of the person from whom consent otherwise would be required.

#### **Health Professional Disclosure**

Upon written request of a child protective services caseworker employee directly involved in the investigation, or the caseworker's administrator, and within 14 calendar days after the record holder received the request, a health profession licensee or registrant who provided treatment to a child who was the subject of an investigation under the Child Protection Law, would have to provide access to the child's medical records to the caseworker or administrator, regardless of the consent of the person from whom consent otherwise would be required.

The following privileges would not apply to information released or made available under this provision:

- The physician-patient privilege.
- The dentist-patient privilege.
- The licensed professional counselor-client and limited licensed counselor-client privilege.
- The psychologist-patient privilege.
- Any other health professional-patient privilege created or recognized by law.

#### Immunity/Exception

To the extent not protected by the immunity conferred by the governmental immunity law, an individual who in good faith provided access to a record or information as required in the bill, would be immune from civil or administrative liability arising from that conduct, unless the conduct were gross negligence or willful and wanton misconduct.

The bill's disclosure requirements would not apply to a report, record, datum, or information whose confidentiality and disclosure were governed by Section 5131 of the Code (which pertains to information associated with serious communicable diseases, HIV infection, and AIDS).

MCL 333.2637 et al.

Legislative Analyst: S. Lowe

#### **FISCAL IMPACT**

The bill would have no fiscal impact on the Family Independence Agency or the Department of Community Health.

Fiscal Analyst: C. Cole  
P. Graham

S9798\S1211SA

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.