

Act No. 621
Public Acts of 2006
Approved by the Governor
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**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006**

Introduced by Senator Hardiman

ENROLLED SENATE BILL No. 1512

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 section 7 (MCL 722.627), as amended by 2004 PA 563.

The People of the State of Michigan enact:

Sec. 7. (1) The department shall maintain a statewide, electronic central registry to carry out the intent of this act.

(2) 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 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 records.

(b) A police or other law enforcement agency investigating a report of known or suspected child abuse or 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 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 that determines the information is necessary to decide an issue before the court.

(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 the 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 persons in a foster care or adoptive home who are directly responsible for the care and welfare of children, to determine suitability of a home for adoption or foster care. The child placing agency shall 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 other persons in the home who are directly responsible for the care and welfare of children, for the purpose of determining the suitability of the home for foster care. The court shall 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 children's ombudsman appointed under the children's ombudsman act, 1994 PA 204, MCL 722.921 to 722.935.

(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 is 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, subject to the provisions of subsection (3) and sections 5 and 13, if there is a compelling need for child protective services records or information to determine custody or parenting time issues regarding a child. A local friend of the court office investigator, caseworker, or administrator directly involved in the custody investigation shall notify the appropriate department or child protective services local or central office that a child custody or parenting time investigation has been initiated involving a family and shall request in writing child protective services records and information that are pertinent to that investigation. Upon receipt of this notification and request, the local office of child protective services supervisor shall review child protective services information in the local office's possession to determine if there are child protective services records or information that is pertinent to that investigation. Within 14 days after receipt of a request made under this subdivision, the child protective services local office shall release the pertinent child protective services records and information to the investigator, caseworker, or administrator directly involved in the child custody or parenting time investigation. Child protective services is further authorized to report to the local friend of the court office any situation in which a parent, more than 3 times within 1 year or on 5 cumulative reports over several years, made unfounded reports to child protective services regarding alleged child abuse or neglect of his or her child.

(3) Subject to subsection (9), a person or entity to whom information described in subsection (2) is disclosed shall make the information available only to a person or entity described in subsection (2). This subsection does not require a court proceeding to be closed that otherwise would be open to the public.

(4) If the department classifies a report of suspected child abuse or neglect as a central registry case, the department shall maintain a record in the central registry and, within 30 days after the classification, shall notify in writing each person who is named in the record as a perpetrator of the child abuse or neglect. The notice shall set forth the person's right to request expunction of the record and the right to a hearing if the department refuses the request. The notice shall state that the record may be released under section 7d. The notice shall not identify the person reporting the suspected child abuse or neglect.

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

(6) If the department refuses a request for amendment or expunction under subsection (5), or fails to act within 30 days after receiving the request, the department shall hold a hearing to determine by a preponderance of the evidence whether the report or record in whole or in part should be amended or expunged from the central registry on the grounds that the report or record is not relevant or accurate evidence of abuse or neglect. The hearing shall be held before a hearing officer appointed by the department and shall be conducted as prescribed by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(7) If the investigation of a report conducted under this act fails to disclose evidence of abuse or neglect, the information identifying the subject of the report shall be expunged from the central registry. If evidence of abuse or neglect exists, the department shall maintain the information in the central registry until the department receives reliable information that the perpetrator of the abuse or neglect is dead.

(8) 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 neglect. This subsection does not prevent the department from releasing reports of convictions of crimes related to child abuse or neglect.

(9) 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.

(10) An agency obtaining a confidential record under subsection (2)(a) may seek an order from the court having jurisdiction over the child or from the family division of the Ingham county circuit court that allows the agency to disseminate confidential child protective services or foster care information to pursue sanctions for alleged dereliction, malfeasance, or misfeasance of duty against an employee of the agency, to a recognized labor union representative of the employee's bargaining unit, or to an arbitrator or an administrative law judge who conducts a hearing involving the employee's alleged dereliction, malfeasance, or misfeasance of duty to be used solely in connection with that hearing. Information released under this subsection shall be released in a manner that maintains the greatest degree of confidentiality while allowing review of employee performance.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E Randall

Clerk of the House of Representatives

Approved

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Governor