



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3394

by Rep. Lawrence Walsh, Jr.

SYNOPSIS AS INTRODUCED:

325 ILCS 5/7.4

from Ch. 23, par. 2057.4

Amends the Abused and Neglected Child Reporting Act. In provisions concerning abuse and neglect investigations involving a school employee, provides that if the Child Protective Service Unit has not conducted an investigation involving an allegation against a teacher or school employee within 3 weeks of the initial report to the Department of Children and Family Services, the school administrator, upon notification of the investigation by the Unit, may either place the teacher or employee on paid administrative leave or separate the teacher or employee from the alleged victim so that there shall be no contact between the 2 individuals during the course of the investigation. Provides that if the investigation is not completed within 3 weeks after notification to the school administrator, the administrator may, in his or her sole discretion, return the teacher or employee who is under investigation to his or her assigned position and assignments.

LRB100 09029 KTG 19177 b

1 AN ACT concerning children.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Abused and Neglected Child Reporting Act is
5 amended by changing Section 7.4 as follows:

6 (325 ILCS 5/7.4) (from Ch. 23, par. 2057.4)

7 Sec. 7.4. (a) The Department shall be capable of receiving
8 reports of suspected child abuse or neglect 24 hours a day, 7
9 days a week. Whenever the Department receives a report alleging
10 that a child is a truant as defined in Section 26-2a of The
11 School Code, as now or hereafter amended, the Department shall
12 notify the superintendent of the school district in which the
13 child resides and the appropriate superintendent of the
14 educational service region. The notification to the
15 appropriate officials by the Department shall not be considered
16 an allegation of abuse or neglect under this Act.

17 (a-5) Beginning January 1, 2010, the Department of Children
18 and Family Services may implement a 5-year demonstration of a
19 "differential response program" in accordance with criteria,
20 standards, and procedures prescribed by rule. The program may
21 provide that, upon receiving a report, the Department shall
22 determine whether to conduct a family assessment or an
23 investigation as appropriate to prevent or provide a remedy for

1 child abuse or neglect.

2 For purposes of this subsection (a-5), "family assessment"
3 means a comprehensive assessment of child safety, risk of
4 subsequent child maltreatment, and family strengths and needs
5 that is applied to a child maltreatment report that does not
6 allege substantial child endangerment. "Family assessment"
7 does not include a determination as to whether child
8 maltreatment occurred but does determine the need for services
9 to address the safety of family members and the risk of
10 subsequent maltreatment.

11 For purposes of this subsection (a-5), "investigation"
12 means fact-gathering related to the current safety of a child
13 and the risk of subsequent abuse or neglect that determines
14 whether a report of suspected child abuse or neglect should be
15 indicated or unfounded and whether child protective services
16 are needed.

17 Under the "differential response program" implemented
18 under this subsection (a-5), the Department:

19 (1) Shall conduct an investigation on reports
20 involving substantial child abuse or neglect.

21 (2) Shall begin an immediate investigation if, at any
22 time when it is using a family assessment response, it
23 determines that there is reason to believe that substantial
24 child abuse or neglect or a serious threat to the child's
25 safety exists.

26 (3) May conduct a family assessment for reports that do

1 not allege substantial child endangerment. In determining
2 that a family assessment is appropriate, the Department may
3 consider issues including, but not limited to, child
4 safety, parental cooperation, and the need for an immediate
5 response.

6 (4) Shall promulgate criteria, standards, and
7 procedures that shall be applied in making this
8 determination, taking into consideration the Child
9 Endangerment Risk Assessment Protocol of the Department.

10 (5) May conduct a family assessment on a report that
11 was initially screened and assigned for an investigation.

12 In determining that a complete investigation is not
13 required, the Department must document the reason for
14 terminating the investigation and notify the local law
15 enforcement agency or the Department of State Police if the
16 local law enforcement agency or Department of State Police is
17 conducting a joint investigation.

18 Once it is determined that a "family assessment" will be
19 implemented, the case shall not be reported to the central
20 register of abuse and neglect reports.

21 During a family assessment, the Department shall collect
22 any available and relevant information to determine child
23 safety, risk of subsequent abuse or neglect, and family
24 strengths.

25 Information collected includes, but is not limited to, when
26 relevant: information with regard to the person reporting the

1 alleged abuse or neglect, including the nature of the
2 reporter's relationship to the child and to the alleged
3 offender, and the basis of the reporter's knowledge for the
4 report; the child allegedly being abused or neglected; the
5 alleged offender; the child's caretaker; and other collateral
6 sources having relevant information related to the alleged
7 abuse or neglect. Information relevant to the assessment must
8 be asked for, and may include:

9 (A) The child's sex and age, prior reports of abuse or
10 neglect, information relating to developmental
11 functioning, credibility of the child's statement, and
12 whether the information provided under this paragraph (A)
13 is consistent with other information collected during the
14 course of the assessment or investigation.

15 (B) The alleged offender's age, a record check for
16 prior reports of abuse or neglect, and criminal charges and
17 convictions. The alleged offender may submit supporting
18 documentation relevant to the assessment.

19 (C) Collateral source information regarding the
20 alleged abuse or neglect and care of the child. Collateral
21 information includes, when relevant: (i) a medical
22 examination of the child; (ii) prior medical records
23 relating to the alleged maltreatment or care of the child
24 maintained by any facility, clinic, or health care
25 professional, and an interview with the treating
26 professionals; and (iii) interviews with the child's

1 caretakers, including the child's parent, guardian, foster
2 parent, child care provider, teachers, counselors, family
3 members, relatives, and other persons who may have
4 knowledge regarding the alleged maltreatment and the care
5 of the child.

6 (D) Information on the existence of domestic abuse and
7 violence in the home of the child, and substance abuse.

8 Nothing in this subsection (a-5) precludes the Department
9 from collecting other relevant information necessary to
10 conduct the assessment or investigation. Nothing in this
11 subsection (a-5) shall be construed to allow the name or
12 identity of a reporter to be disclosed in violation of the
13 protections afforded under Section 7.19 of this Act.

14 After conducting the family assessment, the Department
15 shall determine whether services are needed to address the
16 safety of the child and other family members and the risk of
17 subsequent abuse or neglect.

18 Upon completion of the family assessment, if the Department
19 concludes that no services shall be offered, then the case
20 shall be closed. If the Department concludes that services
21 shall be offered, the Department shall develop a family
22 preservation plan and offer or refer services to the family.

23 At any time during a family assessment, if the Department
24 believes there is any reason to stop the assessment and conduct
25 an investigation based on the information discovered, the
26 Department shall do so.

1 The procedures available to the Department in conducting
2 investigations under this Act shall be followed as appropriate
3 during a family assessment.

4 The Department shall arrange for an independent evaluation
5 of the "differential response program" authorized and
6 implemented under this subsection (a-5) to determine whether it
7 is meeting the goals in accordance with Section 2 of this Act.
8 The Department may adopt administrative rules necessary for the
9 execution of this Section, in accordance with Section 4 of the
10 Children and Family Services Act.

11 The demonstration conducted under this subsection (a-5)
12 shall become a permanent program on July 1, 2016, upon
13 completion of the demonstration project period.

14 (b) (1) The following procedures shall be followed in the
15 investigation of all reports of suspected abuse or neglect of a
16 child, except as provided in subsection (c) of this Section.

17 (2) If, during a family assessment authorized by subsection
18 (a-5) or an investigation, it appears that the immediate safety
19 or well-being of a child is endangered, that the family may
20 flee or the child disappear, or that the facts otherwise so
21 warrant, the Child Protective Service Unit shall commence an
22 investigation immediately, regardless of the time of day or
23 night. All other investigations shall be commenced within 24
24 hours of receipt of the report. Upon receipt of a report, the
25 Child Protective Service Unit shall conduct a family assessment
26 authorized by subsection (a-5) or begin an initial

1 investigation and make an initial determination whether the
2 report is a good faith indication of alleged child abuse or
3 neglect.

4 (3) Based on an initial investigation, if the Unit
5 determines the report is a good faith indication of alleged
6 child abuse or neglect, then a formal investigation shall
7 commence and, pursuant to Section 7.12 of this Act, may or may
8 not result in an indicated report. The formal investigation
9 shall include: direct contact with the subject or subjects of
10 the report as soon as possible after the report is received; an
11 evaluation of the environment of the child named in the report
12 and any other children in the same environment; a determination
13 of the risk to such children if they continue to remain in the
14 existing environments, as well as a determination of the
15 nature, extent and cause of any condition enumerated in such
16 report; the name, age and condition of other children in the
17 environment; and an evaluation as to whether there would be an
18 immediate and urgent necessity to remove the child from the
19 environment if appropriate family preservation services were
20 provided. After seeing to the safety of the child or children,
21 the Department shall forthwith notify the subjects of the
22 report in writing, of the existence of the report and their
23 rights existing under this Act in regard to amendment or
24 expungement. To fulfill the requirements of this Section, the
25 Child Protective Service Unit shall have the capability of
26 providing or arranging for comprehensive emergency services to

1 children and families at all times of the day or night.

2 (4) If (i) at the conclusion of the Unit's initial
3 investigation of a report, the Unit determines the report to be
4 a good faith indication of alleged child abuse or neglect that
5 warrants a formal investigation by the Unit, the Department,
6 any law enforcement agency or any other responsible agency and
7 (ii) the person who is alleged to have caused the abuse or
8 neglect is employed or otherwise engaged in an activity
9 resulting in frequent contact with children and the alleged
10 abuse or neglect are in the course of such employment or
11 activity, then the Department shall, except in investigations
12 where the Director determines that such notification would be
13 detrimental to the Department's investigation, inform the
14 appropriate supervisor or administrator of that employment or
15 activity that the Unit has commenced a formal investigation
16 pursuant to this Act, which may or may not result in an
17 indicated report. The Department shall also notify the person
18 being investigated, unless the Director determines that such
19 notification would be detrimental to the Department's
20 investigation.

21 (c) In an investigation of a report of suspected abuse or
22 neglect of a child by a school employee at a school or on
23 school grounds, the Department shall make reasonable efforts to
24 follow the following procedures:

25 (1) Investigations involving teachers shall not, to
26 the extent possible, be conducted when the teacher is

1 scheduled to conduct classes. Investigations involving
2 other school employees shall be conducted so as to minimize
3 disruption of the school day. The school employee accused
4 of child abuse or neglect may have his superior, his
5 association or union representative and his attorney
6 present at any interview or meeting at which the teacher or
7 administrator is present. The accused school employee
8 shall be informed by a representative of the Department, at
9 any interview or meeting, of the accused school employee's
10 due process rights and of the steps in the investigation
11 process. The information shall include, but need not
12 necessarily be limited to the right, subject to the
13 approval of the Department, of the school employee to
14 confront the accuser, if the accuser is 14 years of age or
15 older, or the right to review the specific allegations
16 which gave rise to the investigation, and the right to
17 review all materials and evidence that have been submitted
18 to the Department in support of the allegation. These due
19 process rights shall also include the right of the school
20 employee to present countervailing evidence regarding the
21 accusations.

22 (2) If a report of neglect or abuse of a child by a
23 teacher or administrator does not involve allegations of
24 sexual abuse or extreme physical abuse, the Child
25 Protective Service Unit shall make reasonable efforts to
26 conduct the initial investigation in coordination with the

1 employee's supervisor.

2 If the Unit determines that the report is a good faith
3 indication of potential child abuse or neglect, it shall
4 then commence a formal investigation under paragraph (3) of
5 subsection (b) of this Section.

6 (3) If a report of neglect or abuse of a child by a
7 teacher or administrator involves an allegation of sexual
8 abuse or extreme physical abuse, the Child Protective Unit
9 shall commence an investigation under paragraph (2) of
10 subsection (b) of this Section.

11 (4) If the Unit has not conducted an investigation
12 involving an allegation against a teacher or school
13 employee within 3 weeks of the initial report to the
14 Department, the school administrator, upon notification of
15 the investigation by the Unit, may either place the teacher
16 or employee on paid administrative leave or separate the
17 teacher or employee from the alleged victim so that there
18 shall be no contact between the 2 individuals during the
19 course of the investigation. Additionally, if the
20 investigation is not completed within 3 weeks after
21 notification to the school administrator, the
22 administrator may, in his or her sole discretion, return
23 the teacher or employee who is under investigation to his
24 or her assigned position and assignments.

25 (c-5) In any instance in which a report is made or caused
26 to made by a school district employee involving the conduct of

1 a person employed by the school district, at the time the
2 report was made, as required under Section 4 of this Act, the
3 Child Protective Service Unit shall send a copy of its final
4 finding report to the general superintendent of that school
5 district.

6 (d) If the Department has contact with an employer, or with
7 a religious institution or religious official having
8 supervisory or hierarchical authority over a member of the
9 clergy accused of the abuse of a child, in the course of its
10 investigation, the Department shall notify the employer or the
11 religious institution or religious official, in writing, when a
12 report is unfounded so that any record of the investigation can
13 be expunged from the employee's or member of the clergy's
14 personnel or other records. The Department shall also notify
15 the employee or the member of the clergy, in writing, that
16 notification has been sent to the employer or to the
17 appropriate religious institution or religious official
18 informing the employer or religious institution or religious
19 official that the Department's investigation has resulted in an
20 unfounded report.

21 (e) Upon request by the Department, the Department of State
22 Police and law enforcement agencies are authorized to provide
23 criminal history record information as defined in the Illinois
24 Uniform Conviction Information Act and information maintained
25 in the adjudicatory and dispositional record system as defined
26 in Section 2605-355 of the Department of State Police Law (20

1 ILCS 2605/2605-355) to properly designated employees of the
2 Department of Children and Family Services if the Department
3 determines the information is necessary to perform its duties
4 under the Abused and Neglected Child Reporting Act, the Child
5 Care Act of 1969, and the Children and Family Services Act. The
6 request shall be in the form and manner required by the
7 Department of State Police. Any information obtained by the
8 Department of Children and Family Services under this Section
9 is confidential and may not be transmitted outside the
10 Department of Children and Family Services other than to a
11 court of competent jurisdiction or unless otherwise authorized
12 by law. Any employee of the Department of Children and Family
13 Services who transmits confidential information in violation
14 of this Section or causes the information to be transmitted in
15 violation of this Section is guilty of a Class A misdemeanor
16 unless the transmittal of the information is authorized by this
17 Section or otherwise authorized by law.

18 (f) For purposes of this Section "child abuse or neglect"
19 includes abuse or neglect of an adult resident as defined in
20 this Act.

21 (Source: P.A. 98-1141, eff. 12-30-14.)