



Rep. Lawrence Walsh, Jr.

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1 AMENDMENT TO HOUSE BILL 3394

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3394 by replacing  
3 everything after the enacting clause with the following:

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.

1 (a-5) Beginning January 1, 2010, the Department of Children  
2 and Family Services may implement a 5-year demonstration of a  
3 "differential response program" in accordance with criteria,  
4 standards, and procedures prescribed by rule. The program may  
5 provide that, upon receiving a report, the Department shall  
6 determine whether to conduct a family assessment or an  
7 investigation as appropriate to prevent or provide a remedy for  
8 child abuse or neglect.

9 For purposes of this subsection (a-5), "family assessment"  
10 means a comprehensive assessment of child safety, risk of  
11 subsequent child maltreatment, and family strengths and needs  
12 that is applied to a child maltreatment report that does not  
13 allege substantial child endangerment. "Family assessment"  
14 does not include a determination as to whether child  
15 maltreatment occurred but does determine the need for services  
16 to address the safety of family members and the risk of  
17 subsequent maltreatment.

18 For purposes of this subsection (a-5), "investigation"  
19 means fact-gathering related to the current safety of a child  
20 and the risk of subsequent abuse or neglect that determines  
21 whether a report of suspected child abuse or neglect should be  
22 indicated or unfounded and whether child protective services  
23 are needed.

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

26 (1) Shall conduct an investigation on reports

1 involving substantial child abuse or neglect.

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

7 (3) May conduct a family assessment for reports that do  
8 not allege substantial child endangerment. In determining  
9 that a family assessment is appropriate, the Department may  
10 consider issues including, but not limited to, child  
11 safety, parental cooperation, and the need for an immediate  
12 response.

13 (4) Shall promulgate criteria, standards, and  
14 procedures that shall be applied in making this  
15 determination, taking into consideration the Child  
16 Endangerment Risk Assessment Protocol of the Department.

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

19 In determining that a complete investigation is not  
20 required, the Department must document the reason for  
21 terminating the investigation and notify the local law  
22 enforcement agency or the Department of State Police if the  
23 local law enforcement agency or Department of State Police is  
24 conducting a joint investigation.

25 Once it is determined that a "family assessment" will be  
26 implemented, the case shall not be reported to the central

1 register of abuse and neglect reports.

2 During a family assessment, the Department shall collect  
3 any available and relevant information to determine child  
4 safety, risk of subsequent abuse or neglect, and family  
5 strengths.

6 Information collected includes, but is not limited to, when  
7 relevant: information with regard to the person reporting the  
8 alleged abuse or neglect, including the nature of the  
9 reporter's relationship to the child and to the alleged  
10 offender, and the basis of the reporter's knowledge for the  
11 report; the child allegedly being abused or neglected; the  
12 alleged offender; the child's caretaker; and other collateral  
13 sources having relevant information related to the alleged  
14 abuse or neglect. Information relevant to the assessment must  
15 be asked for, and may include:

16 (A) The child's sex and age, prior reports of abuse or  
17 neglect, information relating to developmental  
18 functioning, credibility of the child's statement, and  
19 whether the information provided under this paragraph (A)  
20 is consistent with other information collected during the  
21 course of the assessment or investigation.

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

26 (C) Collateral source information regarding the

1       alleged abuse or neglect and care of the child. Collateral  
2       information includes, when relevant: (i) a medical  
3       examination of the child; (ii) prior medical records  
4       relating to the alleged maltreatment or care of the child  
5       maintained by any facility, clinic, or health care  
6       professional, and an interview with the treating  
7       professionals; and (iii) interviews with the child's  
8       caretakers, including the child's parent, guardian, foster  
9       parent, child care provider, teachers, counselors, family  
10      members, relatives, and other persons who may have  
11      knowledge regarding the alleged maltreatment and the care  
12      of the child.

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

15      Nothing in this subsection (a-5) precludes the Department  
16      from collecting other relevant information necessary to  
17      conduct the assessment or investigation. Nothing in this  
18      subsection (a-5) shall be construed to allow the name or  
19      identity of a reporter to be disclosed in violation of the  
20      protections afforded under Section 7.19 of this Act.

21      After conducting the family assessment, the Department  
22      shall determine whether services are needed to address the  
23      safety of the child and other family members and the risk of  
24      subsequent abuse or neglect.

25      Upon completion of the family assessment, if the Department  
26      concludes that no services shall be offered, then the case

1 shall be closed. If the Department concludes that services  
2 shall be offered, the Department shall develop a family  
3 preservation plan and offer or refer services to the family.

4 At any time during a family assessment, if the Department  
5 believes there is any reason to stop the assessment and conduct  
6 an investigation based on the information discovered, the  
7 Department shall do so.

8 The procedures available to the Department in conducting  
9 investigations under this Act shall be followed as appropriate  
10 during a family assessment.

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

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

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

24 (2) If, during a family assessment authorized by subsection  
25 (a-5) or an investigation, it appears that the immediate safety  
26 or well-being of a child is endangered, that the family may

1 flee or the child disappear, or that the facts otherwise so  
2 warrant, the Child Protective Service Unit shall commence an  
3 investigation immediately, regardless of the time of day or  
4 night. All other investigations shall be commenced within 24  
5 hours of receipt of the report. Upon receipt of a report, the  
6 Child Protective Service Unit shall conduct a family assessment  
7 authorized by subsection (a-5) or begin an initial  
8 investigation and make an initial determination whether the  
9 report is a good faith indication of alleged child abuse or  
10 neglect.

11 (3) Based on an initial investigation, if the Unit  
12 determines the report is a good faith indication of alleged  
13 child abuse or neglect, then a formal investigation shall  
14 commence and, pursuant to Section 7.12 of this Act, may or may  
15 not result in an indicated report. The formal investigation  
16 shall include: direct contact with the subject or subjects of  
17 the report as soon as possible after the report is received; an  
18 evaluation of the environment of the child named in the report  
19 and any other children in the same environment; a determination  
20 of the risk to such children if they continue to remain in the  
21 existing environments, as well as a determination of the  
22 nature, extent and cause of any condition enumerated in such  
23 report; the name, age and condition of other children in the  
24 environment; and an evaluation as to whether there would be an  
25 immediate and urgent necessity to remove the child from the  
26 environment if appropriate family preservation services were

1 provided. After seeing to the safety of the child or children,  
2 the Department shall forthwith notify the subjects of the  
3 report in writing, of the existence of the report and their  
4 rights existing under this Act in regard to amendment or  
5 expungement. To fulfill the requirements of this Section, the  
6 Child Protective Service Unit shall have the capability of  
7 providing or arranging for comprehensive emergency services to  
8 children and families at all times of the day or night.

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



1 investigation.

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

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

1 employee to present countervailing evidence regarding the  
2 accusations.

3 (2) If a report of neglect or abuse of a child by a  
4 teacher or administrator does not involve allegations of  
5 sexual abuse or extreme physical abuse, the Child  
6 Protective Service Unit shall make reasonable efforts to  
7 conduct the initial investigation in coordination with the  
8 employee's supervisor.

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

13 (3) If a report of neglect or abuse of a child by a  
14 teacher or administrator involves an allegation of sexual  
15 abuse or extreme physical abuse, the Child Protective Unit  
16 shall commence an investigation under paragraph (2) of  
17 subsection (b) of this Section.

18 (c-5) In any instance in which a report is made or caused  
19 to made by a school district employee involving the conduct of  
20 a person employed by the school district, at the time the  
21 report was made, as required under Section 4 of this Act, the  
22 Child Protective Service Unit shall send a copy of its final  
23 finding report to the general superintendent of that school  
24 district.

25 (c-10) The Department may recommend that a school district  
26 remove a school employee who is the subject of an investigation

1 from his or her employment position pending the outcome of the  
2 investigation; however, all employment decisions regarding  
3 school personnel shall be the sole responsibility of the school  
4 district or employer. The Department may not require a school  
5 district to remove a school employee from his or her employment  
6 position or limit the school employee's duties pending the  
7 outcome of an investigation.

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

23 (e) Upon request by the Department, the Department of State  
24 Police and law enforcement agencies are authorized to provide  
25 criminal history record information as defined in the Illinois  
26 Uniform Conviction Information Act and information maintained

1 in the adjudicatory and dispositional record system as defined  
2 in Section 2605-355 of the Department of State Police Law (20  
3 ILCS 2605/2605-355) to properly designated employees of the  
4 Department of Children and Family Services if the Department  
5 determines the information is necessary to perform its duties  
6 under the Abused and Neglected Child Reporting Act, the Child  
7 Care Act of 1969, and the Children and Family Services Act. The  
8 request shall be in the form and manner required by the  
9 Department of State Police. Any information obtained by the  
10 Department of Children and Family Services under this Section  
11 is confidential and may not be transmitted outside the  
12 Department of Children and Family Services other than to a  
13 court of competent jurisdiction or unless otherwise authorized  
14 by law. Any employee of the Department of Children and Family  
15 Services who transmits confidential information in violation  
16 of this Section or causes the information to be transmitted in  
17 violation of this Section is guilty of a Class A misdemeanor  
18 unless the transmittal of the information is authorized by this  
19 Section or otherwise authorized by law.

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

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