



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5131

by Rep. Margo McDermed

SYNOPSIS AS INTRODUCED:

325 ILCS 5/4
325 ILCS 5/4.02

from Ch. 23, par. 2054.02

Amends the Abused and Neglected Child Reporting Act. Provides that recreational or athletic program or facility personnel who are required to report child abuse must complete mandated reporter training by a provider or agency with expertise in recognizing and reporting child abuse. Enhances the criminal penalty for any person who knowingly and willfully violates certain reporting requirements for mandated reporters. Makes a violation a Class 4 felony (rather than a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation), except that if the person acted as part of a plan or scheme having as its object the prevention of discovery of an abused or neglected child by lawful authorities for the purpose of protecting or insulating any person or entity from arrest or prosecution, the person commits a Class 3 felony (rather than a Class 4 felony for a first offense and a Class 3 felony for a second or subsequent offense). Enhances the criminal penalty for any other person required to report suspected child abuse or neglect who willfully fails to report such abuse or neglect by making it a Class 4 felony (rather than a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation). Effective immediately.

LRB100 18467 KTG 33682 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

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 Sections 4 and 4.02 as follows:

6 (325 ILCS 5/4)

7 Sec. 4. Persons required to report; privileged
8 communications; transmitting false report. Any physician,
9 resident, intern, hospital, hospital administrator and
10 personnel engaged in examination, care and treatment of
11 persons, surgeon, dentist, dentist hygienist, osteopath,
12 chiropractor, podiatric physician, physician assistant,
13 substance abuse treatment personnel, funeral home director or
14 employee, coroner, medical examiner, emergency medical
15 technician, acupuncturist, crisis line or hotline personnel,
16 school personnel (including administrators and both certified
17 and non-certified school employees), personnel of institutions
18 of higher education, educational advocate assigned to a child
19 pursuant to the School Code, member of a school board or the
20 Chicago Board of Education or the governing body of a private
21 school (but only to the extent required in accordance with
22 other provisions of this Section expressly concerning the duty
23 of school board members to report suspected child abuse),

1 truant officers, social worker, social services administrator,
2 domestic violence program personnel, registered nurse,
3 licensed practical nurse, genetic counselor, respiratory care
4 practitioner, advanced practice registered nurse, home health
5 aide, director or staff assistant of a nursery school or a
6 child day care center, recreational or athletic program or
7 facility personnel, early intervention provider as defined in
8 the Early Intervention Services System Act, law enforcement
9 officer, licensed professional counselor, licensed clinical
10 professional counselor, registered psychologist and assistants
11 working under the direct supervision of a psychologist,
12 psychiatrist, or field personnel of the Department of
13 Healthcare and Family Services, Juvenile Justice, Public
14 Health, Human Services (acting as successor to the Department
15 of Mental Health and Developmental Disabilities,
16 Rehabilitation Services, or Public Aid), Corrections, Human
17 Rights, or Children and Family Services, supervisor and
18 administrator of general assistance under the Illinois Public
19 Aid Code, probation officer, animal control officer or Illinois
20 Department of Agriculture Bureau of Animal Health and Welfare
21 field investigator, or any other foster parent, homemaker or
22 child care worker having reasonable cause to believe a child
23 known to them in their professional or official capacity may be
24 an abused child or a neglected child shall immediately report
25 or cause a report to be made to the Department.

26 Any member of the clergy having reasonable cause to believe

1 that a child known to that member of the clergy in his or her
2 professional capacity may be an abused child as defined in item
3 (c) of the definition of "abused child" in Section 3 of this
4 Act shall immediately report or cause a report to be made to
5 the Department.

6 Any physician, physician's assistant, registered nurse,
7 licensed practical nurse, medical technician, certified
8 nursing assistant, social worker, or licensed professional
9 counselor of any office, clinic, or any other physical location
10 that provides abortions, abortion referrals, or contraceptives
11 having reasonable cause to believe a child known to him or her
12 in his or her professional or official capacity may be an
13 abused child or a neglected child shall immediately report or
14 cause a report to be made to the Department.

15 If an allegation is raised to a school board member during
16 the course of an open or closed school board meeting that a
17 child who is enrolled in the school district of which he or she
18 is a board member is an abused child as defined in Section 3 of
19 this Act, the member shall direct or cause the school board to
20 direct the superintendent of the school district or other
21 equivalent school administrator to comply with the
22 requirements of this Act concerning the reporting of child
23 abuse. For purposes of this paragraph, a school board member is
24 granted the authority in his or her individual capacity to
25 direct the superintendent of the school district or other
26 equivalent school administrator to comply with the

1 requirements of this Act concerning the reporting of child
2 abuse.

3 Notwithstanding any other provision of this Act, if an
4 employee of a school district has made a report or caused a
5 report to be made to the Department under this Act involving
6 the conduct of a current or former employee of the school
7 district and a request is made by another school district for
8 the provision of information concerning the job performance or
9 qualifications of the current or former employee because he or
10 she is an applicant for employment with the requesting school
11 district, the general superintendent of the school district to
12 which the request is being made must disclose to the requesting
13 school district the fact that an employee of the school
14 district has made a report involving the conduct of the
15 applicant or caused a report to be made to the Department, as
16 required under this Act. Only the fact that an employee of the
17 school district has made a report involving the conduct of the
18 applicant or caused a report to be made to the Department may
19 be disclosed by the general superintendent of the school
20 district to which the request for information concerning the
21 applicant is made, and this fact may be disclosed only in cases
22 where the employee and the general superintendent have not been
23 informed by the Department that the allegations were unfounded.
24 An employee of a school district who is or has been the subject
25 of a report made pursuant to this Act during his or her
26 employment with the school district must be informed by that

1 school district that if he or she applies for employment with
2 another school district, the general superintendent of the
3 former school district, upon the request of the school district
4 to which the employee applies, shall notify that requesting
5 school district that the employee is or was the subject of such
6 a report.

7 Whenever such person is required to report under this Act
8 in his capacity as a member of the staff of a medical or other
9 public or private institution, school, facility or agency, or
10 as a member of the clergy, he shall make report immediately to
11 the Department in accordance with the provisions of this Act
12 and may also notify the person in charge of such institution,
13 school, facility or agency, or church, synagogue, temple,
14 mosque, or other religious institution, or his designated agent
15 that such report has been made. Under no circumstances shall
16 any person in charge of such institution, school, facility or
17 agency, or church, synagogue, temple, mosque, or other
18 religious institution, or his designated agent to whom such
19 notification has been made, exercise any control, restraint,
20 modification or other change in the report or the forwarding of
21 such report to the Department.

22 The privileged quality of communication between any
23 professional person required to report and his patient or
24 client shall not apply to situations involving abused or
25 neglected children and shall not constitute grounds for failure
26 to report as required by this Act or constitute grounds for

1 failure to share information or documents with the Department
2 during the course of a child abuse or neglect investigation. If
3 requested by the professional, the Department shall confirm in
4 writing that the information or documents disclosed by the
5 professional were gathered in the course of a child abuse or
6 neglect investigation.

7 The reporting requirements of this Act shall not apply to
8 the contents of a privileged communication between an attorney
9 and his or her client or to confidential information within the
10 meaning of Rule 1.6 of the Illinois Rules of Professional
11 Conduct relating to the legal representation of an individual
12 client.

13 A member of the clergy may claim the privilege under
14 Section 8-803 of the Code of Civil Procedure.

15 Any office, clinic, or any other physical location that
16 provides abortions, abortion referrals, or contraceptives
17 shall provide to all office personnel copies of written
18 information and training materials about abuse and neglect and
19 the requirements of this Act that are provided to employees of
20 the office, clinic, or physical location who are required to
21 make reports to the Department under this Act, and instruct
22 such office personnel to bring to the attention of an employee
23 of the office, clinic, or physical location who is required to
24 make reports to the Department under this Act any reasonable
25 suspicion that a child known to him or her in his or her
26 professional or official capacity may be an abused child or a

1 neglected child. In addition to the above persons required to
2 report suspected cases of abused or neglected children, any
3 other person may make a report if such person has reasonable
4 cause to believe a child may be an abused child or a neglected
5 child.

6 Any person who enters into employment on and after July 1,
7 1986 and is mandated by virtue of that employment to report
8 under this Act, shall sign a statement on a form prescribed by
9 the Department, to the effect that the employee has knowledge
10 and understanding of the reporting requirements of this Act.
11 The statement shall be signed prior to commencement of the
12 employment. The signed statement shall be retained by the
13 employer. The cost of printing, distribution, and filing of the
14 statement shall be borne by the employer.

15 Within one year of initial employment and at least every 5
16 years thereafter, school personnel and recreational or
17 athletic program or facility personnel required to report child
18 abuse as provided under this Section must complete mandated
19 reporter training by a provider or agency with expertise in
20 recognizing and reporting child abuse.

21 The Department shall provide copies of this Act, upon
22 request, to all employers employing persons who shall be
23 required under the provisions of this Section to report under
24 this Act.

25 Any person who knowingly transmits a false report to the
26 Department commits the offense of disorderly conduct under

1 subsection (a) (7) of Section 26-1 of the Criminal Code of 2012.
2 A violation of this provision is a Class 4 felony.

3 Any person who knowingly and willfully violates any
4 provision of this Section other than a second or subsequent
5 violation of transmitting a false report as described in the
6 preceding paragraph, is guilty of ~~a Class A misdemeanor for a~~
7 ~~first violation and a Class 4 felony for a second or subsequent~~
8 ~~violation~~; except that if the person acted as part of a plan or
9 scheme having as its object the prevention of discovery of an
10 abused or neglected child by lawful authorities for the purpose
11 of protecting or insulating any person or entity from arrest or
12 prosecution, the person is guilty of ~~a Class 4 felony for a~~
13 ~~first offense and a Class 3 felony for a second or subsequent~~
14 ~~offense (regardless of whether the second or subsequent offense~~
15 ~~involves any of the same facts or persons as the first or other~~
16 ~~prior offense).~~

17 A child whose parent, guardian or custodian in good faith
18 selects and depends upon spiritual means through prayer alone
19 for the treatment or cure of disease or remedial care may be
20 considered neglected or abused, but not for the sole reason
21 that his parent, guardian or custodian accepts and practices
22 such beliefs.

23 A child shall not be considered neglected or abused solely
24 because the child is not attending school in accordance with
25 the requirements of Article 26 of the School Code, as amended.

26 Nothing in this Act prohibits a mandated reporter who

1 reasonably believes that an animal is being abused or neglected
2 in violation of the Humane Care for Animals Act from reporting
3 animal abuse or neglect to the Department of Agriculture's
4 Bureau of Animal Health and Welfare.

5 A home rule unit may not regulate the reporting of child
6 abuse or neglect in a manner inconsistent with the provisions
7 of this Section. This Section is a limitation under subsection
8 (i) of Section 6 of Article VII of the Illinois Constitution on
9 the concurrent exercise by home rule units of powers and
10 functions exercised by the State.

11 For purposes of this Section "child abuse or neglect"
12 includes abuse or neglect of an adult resident as defined in
13 this Act.

14 (Source: P.A. 100-513, eff. 1-1-18.)

15 (325 ILCS 5/4.02) (from Ch. 23, par. 2054.02)

16 Sec. 4.02. Any physician who willfully fails to report
17 suspected child abuse or neglect as required by this Act shall
18 be referred to the Illinois State Medical Disciplinary Board
19 for action in accordance with paragraph 22 of Section 22 of the
20 Medical Practice Act of 1987. Any dentist or dental hygienist
21 who willfully fails to report suspected child abuse or neglect
22 as required by this Act shall be referred to the Department of
23 Professional Regulation for action in accordance with
24 paragraph 19 of Section 23 of the Illinois Dental Practice Act.
25 Any other person required by this Act to report suspected child

1 abuse and neglect who willfully fails to report such is guilty
2 of ~~a Class A misdemeanor for a first violation and a Class 4~~
3 ~~felony for a second or subsequent violation.~~

4 (Source: P.A. 91-197, eff. 1-1-00; 92-801, eff. 8-16-02.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.