



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2851

Introduced 2/15/2008, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

510 ILCS 70/18 new

325 ILCS 5/4

325 ILCS 5/11.8 new

30 ILCS 805/8.32 new

from Ch. 23, par. 2054

Amends the Humane Care for Animals Act and the Abused and Neglected Child Reporting Act. Provides that an animal control officer or a humane society investigator with reasonable cause to suspect or believe that a child is being abused or neglected or is in danger of being abused or neglected must immediately make a written or oral report to the Department of Children and Family Services. Provides that any person required to report suspected child abuse or neglect under the Abused and Neglected Child Reporting Act must also immediately report suspected animal abuse or neglect or danger of animal abuse or neglect to the Department of Agriculture's Bureau of Animal Welfare. Preempts home rule powers. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB095 19986 DRJ 46418 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning abuse.

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

4 Section 5. The Humane Care for Animals Act is amended by
5 adding Section 18 as follows:

6 (510 ILCS 70/18 new)

7 Sec. 18. Cross-reporting.

8 (a) An animal control officer or humane society
9 investigator who has reasonable cause to suspect or believe
10 that a child is being abused or neglected or is in danger of
11 being abused or neglected must immediately make a written or
12 oral report to the Department of Children and Family Services.

13 (b) Any person who is required under the Abused and
14 Neglected Child Reporting Act to make a report of suspected
15 child abuse or neglect who has reasonable cause to suspect or
16 believe that an animal is being abused or neglected or is in
17 danger of being abused or neglected in violation of this Act
18 must immediately make a written or oral report to the
19 Department of Agriculture's Bureau of Animal Welfare.

20 (c) A home rule unit may not regulate the reporting of
21 child abuse or neglect in a manner inconsistent with the
22 provisions of this Section. This Section is a limitation under
23 subsection (i) of Section 6 of Article VII of the Illinois

1 Constitution on the concurrent exercise by home rule units of
2 powers and functions exercised by the State.

3 Section 10. The Abused and Neglected Child Reporting Act is
4 amended by changing Section 4 and by adding Section 11.8 as
5 follows:

6 (325 ILCS 5/4) (from Ch. 23, par. 2054)

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, podiatrist, physician assistant, substance abuse
13 treatment personnel, funeral home director or employee,
14 coroner, medical examiner, emergency medical technician,
15 acupuncturist, crisis line or hotline personnel, school
16 personnel (including administrators and both certified and
17 non-certified school employees), educational advocate assigned
18 to a child pursuant to the School Code, member of a school
19 board or the Chicago Board of Education or the governing body
20 of a private school (but only to the extent required in
21 accordance with other provisions of this Section expressly
22 concerning the duty of school board members to report suspected
23 child abuse), truant officers, social worker, social services
24 administrator, domestic violence program personnel, registered

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

22 Any member of the clergy having reasonable cause to believe
23 that a child known to that member of the clergy in his or her
24 professional capacity may be an abused child as defined in item
25 (c) of the definition of "abused child" in Section 3 of this
26 Act shall immediately report or cause a report to be made to

1 the Department.

2 If an allegation is raised to a school board member during
3 the course of an open or closed school board meeting that a
4 child who is enrolled in the school district of which he or she
5 is a board member is an abused child as defined in Section 3 of
6 this Act, the member shall direct or cause the school board to
7 direct the superintendent of the school district or other
8 equivalent school administrator to comply with the
9 requirements of this Act concerning the reporting of child
10 abuse. For purposes of this paragraph, a school board member is
11 granted the authority in his or her individual capacity to
12 direct the superintendent of the school district or other
13 equivalent school administrator to comply with the
14 requirements of this Act concerning the reporting of child
15 abuse.

16 Whenever such person is required to report under this Act
17 in his capacity as a member of the staff of a medical or other
18 public or private institution, school, facility or agency, or
19 as a member of the clergy, he shall make report immediately to
20 the Department in accordance with the provisions of this Act
21 and may also notify the person in charge of such institution,
22 school, facility or agency, or church, synagogue, temple,
23 mosque, or other religious institution, or his designated agent
24 that such report has been made. Under no circumstances shall
25 any person in charge of such institution, school, facility or
26 agency, or church, synagogue, temple, mosque, or other

1 religious institution, or his designated agent to whom such
2 notification has been made, exercise any control, restraint,
3 modification or other change in the report or the forwarding of
4 such report to the Department.

5 The privileged quality of communication between any
6 professional person required to report and his patient or
7 client shall not apply to situations involving abused or
8 neglected children and shall not constitute grounds for failure
9 to report as required by this Act.

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

12 In addition to the above persons required to report
13 suspected cases of abused or neglected children, any other
14 person may make a report if such person has reasonable cause to
15 believe a child may be an abused child or a neglected child.

16 Any person who enters into employment on and after July 1,
17 1986 and is mandated by virtue of that employment to report
18 under this Act, shall sign a statement on a form prescribed by
19 the Department, to the effect that the employee has knowledge
20 and understanding of the reporting requirements of this Act.
21 The statement shall be signed prior to commencement of the
22 employment. The signed statement shall be retained by the
23 employer. The cost of printing, distribution, and filing of the
24 statement shall be borne by the employer.

25 The Department shall provide copies of this Act, upon
26 request, to all employers employing persons who shall be

1 required under the provisions of this Section to report under
2 this Act.

3 Any person who knowingly transmits a false report to the
4 Department commits the offense of disorderly conduct under
5 subsection (a)(7) of Section 26-1 of the "Criminal Code of
6 1961". Any person who violates this provision a second or
7 subsequent time shall be guilty of a Class 3 felony.

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

22 A child whose parent, guardian or custodian in good faith
23 selects and depends upon spiritual means through prayer alone
24 for the treatment or cure of disease or remedial care may be
25 considered neglected or abused, but not for the sole reason
26 that his parent, guardian or custodian accepts and practices

1 such beliefs.

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

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 (Source: P.A. 94-888, eff. 6-20-06; 95-10, eff. 6-30-07;
12 95-461, eff. 8-27-07; revised 11-15-07.)

13 (325 ILCS 5/11.8 new)

14 Sec. 11.8. Cross-reporting.

15 (a) Any person required by this Act to make a report of
16 suspected child abuse or neglect who has reasonable cause to
17 suspect or believe that an animal is being abused or neglected
18 or is in danger of being abused or neglected in violation of
19 the Humane Care for Animals Act must immediately make a written
20 or oral report to the Department of Agriculture's Bureau of
21 Animal Welfare.

22 (b) A home rule unit may not regulate the reporting of
23 child abuse or neglect in a manner inconsistent with the
24 provisions of this Section. This Section is a limitation under
25 subsection (i) of Section 6 of Article VII of the Illinois

1 Constitution on the concurrent exercise by home rule units of
2 powers and functions exercised by the State.

3 Section 90. The State Mandates Act is amended by adding
4 Section 8.32 as follows:

5 (30 ILCS 805/8.32 new)

6 Sec. 8.32. Exempt mandate. Notwithstanding Sections 6 and 8
7 of this Act, no reimbursement by the State is required for the
8 implementation of any mandate created by this amendatory Act of
9 the 95th General Assembly.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.