



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB0090

Introduced 1/30/2009, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

510 ILCS 70/18 new

325 ILCS 5/4

325 ILCS 5/11.8 new

30 ILCS 805/8.33 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, a Department of Agriculture investigator, or a humane society investigator who has 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. Requires Investigation Specialists, Intact Family Specialists, and Placement Specialists employed by the Department of Children and Family Services who reasonably believe that an animal observed by them when in their professional or official capacity is being abused or neglected must immediately make a written or oral report to Department of Agriculture's Bureau of Animal Health and Welfare. Provides for immunity from liability for persons, institutions, and agencies participating in good faith in the reporting or investigation of animal abuse or neglect. Provides for confidentiality of the identity of persons reporting animal abuse or neglect. Provides that nothing in the Abused and Neglected Child Reporting Act prohibits a mandated reporter who reasonably believes that an animal is being abused or neglected in violation of the Humane Care for Animals Act from reporting animal abuse or neglect to the Department of Agriculture's Bureau of Animal Health and Welfare. Preempts home rule powers. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB096 03030 JDS 13044 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, Department investigator, or
9 approved humane investigator who has reasonable cause to
10 suspect or believe that a child is being abused or neglected or
11 is in danger of being abused or neglected must immediately make
12 a written or oral report to the Department of Children and
13 Family Services.

14 (b) Investigation Specialists, Intact Family Specialists,
15 and Placement Specialists employed by the Department of
16 Children and Family Services who reasonably believe that an
17 animal observed by them when in their professional or official
18 capacity is being abused or neglected in violation of this Act
19 must immediately make a written or oral report to the
20 Department of Agriculture's Bureau of Animal Health and
21 Welfare.

22 (c) Any person, institution, or agency described in
23 subsection (b), participating in good faith in the making of a

1 report or referral, or in the investigation of such a report or
2 referral, or in making a disclosure of information concerning
3 reports of abuse or neglect under this Act, shall have immunity
4 from any liability, civil, criminal, or otherwise, that might
5 result by reason of such actions. For the purpose of any
6 proceedings, civil or criminal, the good faith of any persons
7 required to report or refer, or permitted to report, cases of
8 suspected animal abuse or neglect, or permitted to refer
9 individuals under this Act or required to disclose information
10 concerning reports of animal abuse and neglect in compliance
11 with this Act, shall be presumed.

12 (d) The identity of any person who reports animal abuse or
13 neglect under subsection (b) shall be confidential and shall
14 not be disclosed except as specifically authorized by this Act
15 or other applicable law.

16 (e) A home rule unit may not regulate the reporting of
17 child abuse or neglect in a manner inconsistent with the
18 provisions of this Section. This Section is a limitation under
19 subsection (i) of Section 6 of Article VII of the Illinois
20 Constitution on the concurrent exercise by home rule units of
21 powers and functions exercised by the State.

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

1 (325 ILCS 5/4) (from Ch. 23, par. 2054)

2 Sec. 4. Persons required to report; privileged
3 communications; transmitting false report. Any physician,
4 resident, intern, hospital, hospital administrator and
5 personnel engaged in examination, care and treatment of
6 persons, surgeon, dentist, dentist hygienist, osteopath,
7 chiropractor, podiatrist, physician assistant, substance abuse
8 treatment personnel, funeral home director or employee,
9 coroner, medical examiner, emergency medical technician,
10 acupuncturist, crisis line or hotline personnel, school
11 personnel (including administrators and both certified and
12 non-certified school employees), educational advocate assigned
13 to a child pursuant to the School Code, member of a school
14 board or the Chicago Board of Education or the governing body
15 of a private school (but only to the extent required in
16 accordance with other provisions of this Section expressly
17 concerning the duty of school board members to report suspected
18 child abuse), truant officers, social worker, social services
19 administrator, domestic violence program personnel, registered
20 nurse, licensed practical nurse, genetic counselor,
21 respiratory care practitioner, advanced practice nurse, home
22 health aide, director or staff assistant of a nursery school or
23 a child day care center, recreational program or facility
24 personnel, law enforcement officer, licensed professional
25 counselor, licensed clinical professional counselor,
26 registered psychologist and assistants working under the

1 direct supervision of a psychologist, psychiatrist, or field
2 personnel of the Department of Healthcare and Family Services,
3 Juvenile Justice, Public Health, Human Services (acting as
4 successor to the Department of Mental Health and Developmental
5 Disabilities, Rehabilitation Services, or Public Aid),
6 Corrections, Human Rights, or Children and Family Services,
7 supervisor and administrator of general assistance under the
8 Illinois Public Aid Code, probation officer, animal control
9 officer or Illinois Department of Agriculture Bureau of Animal
10 Health and Welfare field investigator, or any other foster
11 parent, homemaker or child care worker having reasonable cause
12 to believe a child known to them in their professional or
13 official capacity may be an abused child or a neglected child
14 shall immediately report or cause a report to be made to the
15 Department.

16 Any member of the clergy having reasonable cause to believe
17 that a child known to that member of the clergy in his or her
18 professional capacity may be an abused child as defined in item
19 (c) of the definition of "abused child" in Section 3 of this
20 Act shall immediately report or cause a report to be made to
21 the Department.

22 If an allegation is raised to a school board member during
23 the course of an open or closed school board meeting that a
24 child who is enrolled in the school district of which he or she
25 is a board member is an abused child as defined in Section 3 of
26 this Act, the member shall direct or cause the school board to

1 direct the superintendent of the school district or other
2 equivalent school administrator to comply with the
3 requirements of this Act concerning the reporting of child
4 abuse. For purposes of this paragraph, a school board member is
5 granted the authority in his or her individual capacity to
6 direct the superintendent of the school district or other
7 equivalent school administrator to comply with the
8 requirements of this Act concerning the reporting of child
9 abuse.

10 Notwithstanding any other provision of this Act, if an
11 employee of a school district has made a report or caused a
12 report to be made to the Department under this Act involving
13 the conduct of a current or former employee of the school
14 district and a request is made by another school district for
15 the provision of information concerning the job performance or
16 qualifications of the current or former employee because he or
17 she is an applicant for employment with the requesting school
18 district, the general superintendent of the school district to
19 which the request is being made must disclose to the requesting
20 school district the fact that an employee of the school
21 district has made a report involving the conduct of the
22 applicant or caused a report to be made to the Department, as
23 required under this Act. Only the fact that an employee of the
24 school district has made a report involving the conduct of the
25 applicant or caused a report to be made to the Department may
26 be disclosed by the general superintendent of the school

1 district to which the request for information concerning the
2 applicant is made, and this fact may be disclosed only in cases
3 where the employee and the general superintendent have not been
4 informed by the Department that the allegations were unfounded.
5 An employee of a school district who is or has been the subject
6 of a report made pursuant to this Act during his or her
7 employment with the school district must be informed by that
8 school district that if he or she applies for employment with
9 another school district, the general superintendent of the
10 former school district, upon the request of the school district
11 to which the employee applies, shall notify that requesting
12 school district that the employee is or was the subject of such
13 a report.

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

1 modification or other change in the report or the forwarding of
2 such report to the Department.

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

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

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

14 Any person who enters into employment on and after July 1,
15 1986 and is mandated by virtue of that employment to report
16 under this Act, shall sign a statement on a form prescribed by
17 the Department, to the effect that the employee has knowledge
18 and understanding of the reporting requirements of this Act.
19 The statement shall be signed prior to commencement of the
20 employment. The signed statement shall be retained by the
21 employer. The cost of printing, distribution, and filing of the
22 statement shall be borne by the employer.

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

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

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

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

26 A child shall not be considered neglected or abused solely

1 because the child is not attending school in accordance with
2 the requirements of Article 26 of the School Code, as amended.

3 Nothing in this Act prohibits a mandated reporter who
4 reasonably believes that an animal is being abused or neglected
5 in violation of the Humane Care for Animals Act from reporting
6 animal abuse or neglect to the Department of Agriculture's
7 Bureau of Animal Health and Welfare.

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

14 (Source: P.A. 94-888, eff. 6-20-06; 95-10, eff. 6-30-07;
15 95-461, eff. 8-27-07; 95-876, eff. 8-21-08; 95-908, eff.
16 8-26-08.)

17 (325 ILCS 5/11.8 new)

18 Sec. 11.8. Cross-reporting.

19 (a) Investigation Specialists, Intact Family Specialists,
20 and Placement Specialists employed by the Department of
21 Children and Family Services who reasonably believe that an
22 animal observed by them when in their professional or official
23 capacity is being abused or neglected in violation of the
24 Humane Care for Animals Act must immediately make a written or
25 oral report to the Department of Agriculture's Bureau of Animal

1 Health and Welfare.

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

8 Section 15. The State Mandates Act is amended by adding
9 Section 8.33 as follows:

10 (30 ILCS 805/8.33 new)

11 Sec. 8.33. Exempt mandate. Notwithstanding Sections 6 and 8
12 of this Act, no reimbursement by the State is required for the
13 implementation of any mandate created by this amendatory Act of
14 the 96th General Assembly.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.