



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2809

Introduced 1/28/2010, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

325 ILCS 5/2	from Ch. 23, par. 2052
325 ILCS 5/3	from Ch. 23, par. 2053
325 ILCS 5/7.3	from Ch. 23, par. 2057.3

Amends the Abused and Neglected Child Reporting Act. Provides that the Illinois Department of Children and Family Services shall be responsible for receiving and investigating reports of abuse or neglect, or both, of adult residents. Defines the term "adult resident" to mean any person 18 years of age or older who resides in a Department-licensed residential care facility.

LRB096 17346 KTG 32697 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 Sections 2, 3, and 7.3 as follows:

6 (325 ILCS 5/2) (from Ch. 23, par. 2052)

7 Sec. 2.

8 (a) The Illinois Department of Children and Family Services
9 shall, upon receiving reports made under this Act, protect the
10 health, safety, and best interests of the child in all
11 situations in which the child is vulnerable to child abuse or
12 neglect, offer protective services in order to prevent any
13 further harm to the child and to other children in the same
14 environment or family, stabilize the home environment, and
15 preserve family life whenever possible. Recognizing that
16 children also can be abused and neglected while living in
17 public or private residential agencies or institutions meant to
18 serve them, while attending day care centers, schools, or
19 religious activities, or when in contact with adults who are
20 responsible for the welfare of the child at that time, this Act
21 also provides for the reporting and investigation of child
22 abuse and neglect in such instances. In performing any of these
23 duties, the Department may utilize such protective services of

1 voluntary agencies as are available.

2 (b) The Department shall be responsible for receiving and
3 investigating reports of abuse or neglect, or both, of adult
4 residents as defined in Section 3 of this Act.

5 (Source: P.A. 92-801, eff. 8-16-02.)

6 (325 ILCS 5/3) (from Ch. 23, par. 2053)

7 Sec. 3. As used in this Act unless the context otherwise
8 requires:

9 "Adult resident" means any person 18 years of age or older
10 who resides in a Department-licensed residential care
11 facility. The provisions of this Act relating to child abuse or
12 neglect also apply to an adult resident as if the adult
13 resident were under the age of 18 years.

14 "Child" means any person under the age of 18 years, unless
15 legally emancipated by reason of marriage or entry into a
16 branch of the United States armed services.

17 "Department" means Department of Children and Family
18 Services.

19 "Local law enforcement agency" means the police of a city,
20 town, village or other incorporated area or the sheriff of an
21 unincorporated area or any sworn officer of the Illinois
22 Department of State Police.

23 "Abused child" means a child whose parent or immediate
24 family member, or any person responsible for the child's
25 welfare, or any individual residing in the same home as the

1 child, or a paramour of the child's parent:

2 (a) inflicts, causes to be inflicted, or allows to be
3 inflicted upon such child physical injury, by other than
4 accidental means, which causes death, disfigurement,
5 impairment of physical or emotional health, or loss or
6 impairment of any bodily function;

7 (b) creates a substantial risk of physical injury to
8 such child by other than accidental means which would be
9 likely to cause death, disfigurement, impairment of
10 physical or emotional health, or loss or impairment of any
11 bodily function;

12 (c) commits or allows to be committed any sex offense
13 against such child, as such sex offenses are defined in the
14 Criminal Code of 1961, as amended, and extending those
15 definitions of sex offenses to include children under 18
16 years of age;

17 (d) commits or allows to be committed an act or acts of
18 torture upon such child;

19 (e) inflicts excessive corporal punishment;

20 (f) commits or allows to be committed the offense of
21 female genital mutilation, as defined in Section 12-34 of
22 the Criminal Code of 1961, against the child; or

23 (g) causes to be sold, transferred, distributed, or
24 given to such child under 18 years of age, a controlled
25 substance as defined in Section 102 of the Illinois
26 Controlled Substances Act in violation of Article IV of the

1 Illinois Controlled Substances Act or in violation of the
2 Methamphetamine Control and Community Protection Act,
3 except for controlled substances that are prescribed in
4 accordance with Article III of the Illinois Controlled
5 Substances Act and are dispensed to such child in a manner
6 that substantially complies with the prescription.

7 A child shall not be considered abused for the sole reason
8 that the child has been relinquished in accordance with the
9 Abandoned Newborn Infant Protection Act.

10 "Neglected child" means any child who is not receiving the
11 proper or necessary nourishment or medically indicated
12 treatment including food or care not provided solely on the
13 basis of the present or anticipated mental or physical
14 impairment as determined by a physician acting alone or in
15 consultation with other physicians or otherwise is not
16 receiving the proper or necessary support or medical or other
17 remedial care recognized under State law as necessary for a
18 child's well-being, or other care necessary for his or her
19 well-being, including adequate food, clothing and shelter; or
20 who is abandoned by his or her parents or other person
21 responsible for the child's welfare without a proper plan of
22 care; or who has been provided with interim crisis intervention
23 services under Section 3-5 of the Juvenile Court Act of 1987
24 and whose parent, guardian, or custodian refuses to permit the
25 child to return home and no other living arrangement agreeable
26 to the parent, guardian, or custodian can be made, and the

1 parent, guardian, or custodian has not made any other
2 appropriate living arrangement for the child; or who is a
3 newborn infant whose blood, urine, or meconium contains any
4 amount of a controlled substance as defined in subsection (f)
5 of Section 102 of the Illinois Controlled Substances Act or a
6 metabolite thereof, with the exception of a controlled
7 substance or metabolite thereof whose presence in the newborn
8 infant is the result of medical treatment administered to the
9 mother or the newborn infant. A child shall not be considered
10 neglected for the sole reason that the child's parent or other
11 person responsible for his or her welfare has left the child in
12 the care of an adult relative for any period of time. A child
13 shall not be considered neglected for the sole reason that the
14 child has been relinquished in accordance with the Abandoned
15 Newborn Infant Protection Act. A child shall not be considered
16 neglected or abused for the sole reason that such child's
17 parent or other person responsible for his or her welfare
18 depends upon spiritual means through prayer alone for the
19 treatment or cure of disease or remedial care as provided under
20 Section 4 of this Act. A child shall not be considered
21 neglected or abused solely because the child is not attending
22 school in accordance with the requirements of Article 26 of The
23 School Code, as amended.

24 "Child Protective Service Unit" means certain specialized
25 State employees of the Department assigned by the Director to
26 perform the duties and responsibilities as provided under

1 Section 7.2 of this Act.

2 "Person responsible for the child's welfare" means the
3 child's parent; guardian; foster parent; relative caregiver;
4 any person responsible for the child's welfare in a public or
5 private residential agency or institution; any person
6 responsible for the child's welfare within a public or private
7 profit or not for profit child care facility; or any other
8 person responsible for the child's welfare at the time of the
9 alleged abuse or neglect, or any person who came to know the
10 child through an official capacity or position of trust,
11 including but not limited to health care professionals,
12 educational personnel, recreational supervisors, members of
13 the clergy, and volunteers or support personnel in any setting
14 where children may be subject to abuse or neglect.

15 "Temporary protective custody" means custody within a
16 hospital or other medical facility or a place previously
17 designated for such custody by the Department, subject to
18 review by the Court, including a licensed foster home, group
19 home, or other institution; but such place shall not be a jail
20 or other place for the detention of criminal or juvenile
21 offenders.

22 "An unfounded report" means any report made under this Act
23 for which it is determined after an investigation that no
24 credible evidence of abuse or neglect exists.

25 "An indicated report" means a report made under this Act if
26 an investigation determines that credible evidence of the

1 alleged abuse or neglect exists.

2 "An undetermined report" means any report made under this
3 Act in which it was not possible to initiate or complete an
4 investigation on the basis of information provided to the
5 Department.

6 "Subject of report" means any child reported to the central
7 register of child abuse and neglect established under Section
8 7.7 of this Act and his or her parent, guardian or other person
9 responsible who is also named in the report.

10 "Perpetrator" means a person who, as a result of
11 investigation, has been determined by the Department to have
12 caused child abuse or neglect.

13 "Member of the clergy" means a clergyman or practitioner of
14 any religious denomination accredited by the religious body to
15 which he or she belongs.

16 (Source: P.A. 94-556, eff. 9-11-05; 95-443, eff. 1-1-08.)

17 (325 ILCS 5/7.3) (from Ch. 23, par. 2057.3)

18 Sec. 7.3. (a) The Department shall be the sole agency
19 responsible for receiving and investigating reports of child
20 abuse or neglect made under this Act, including reports of
21 adult resident abuse or neglect, except where investigations by
22 other agencies may be required with respect to reports alleging
23 the death of a child, serious injury to a child or sexual abuse
24 to a child made pursuant to Sections 4.1 or 7 of this Act, and
25 except that the Department may delegate the performance of the

1 investigation to the Department of State Police, a law
2 enforcement agency and to those private social service agencies
3 which have been designated for this purpose by the Department
4 prior to July 1, 1980.

5 (b) Notwithstanding any other provision of this Act, the
6 Department shall adopt rules expressly allowing law
7 enforcement personnel to investigate reports of suspected
8 child abuse or neglect concurrently with the Department,
9 without regard to whether the Department determines a report to
10 be "indicated" or "unfounded" or deems a report to be
11 "undetermined".

12 (Source: P.A. 95-57, eff. 8-10-07.)