



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB6207

by Rep. Dwight Kay

#### SYNOPSIS AS INTRODUCED:

325 ILCS 5/4

from Ch. 23, par. 2054

Amends the Abused and Neglected Child Reporting Act by changing the criminal penalties for persons who knowingly and willfully violate certain reporting requirements and provisions concerning privileged communications. Provides that a first violation is a Class 4 felony (rather than a Class A misdemeanor) and a second or subsequent violation is a Class 3 felony (rather than a Class 4 felony), 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, a first violation is a Class 3 felony (rather than a Class 4 felony) and a second or subsequent violation is a Class 2 felony (rather than a Class 3 felony).

LRB097 22174 KTG 70905 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 Section 4 as 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

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

24 Any member of the clergy having reasonable cause to believe  
25 that a child known to that member of the clergy in his or her  
26 professional capacity may be an abused child as defined in item

1 (c) of the definition of "abused child" in Section 3 of this  
2 Act shall immediately report or cause a report to be made to  
3 the Department.

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

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

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

1 former school district, upon the request of the school district  
2 to which the employee applies, shall notify that requesting  
3 school district that the employee is or was the subject of such  
4 a report.

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

20 The privileged quality of communication between any  
21 professional person required to report and his patient or  
22 client shall not apply to situations involving abused or  
23 neglected children and shall not constitute grounds for failure  
24 to report as required by this Act or constitute grounds for  
25 failure to share information or documents with the Department  
26 during the course of a child abuse or neglect investigation. If

1 requested by the professional, the Department shall confirm in  
2 writing that the information or documents disclosed by the  
3 professional were gathered in the course of a child abuse or  
4 neglect investigation.

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

7 Any office, clinic, or any other physical location that  
8 provides abortions, abortion referrals, or contraceptives  
9 shall provide to all office personnel copies of written  
10 information and training materials about abuse and neglect and  
11 the requirements of this Act that are provided to employees of  
12 the office, clinic, or physical location who are required to  
13 make reports to the Department under this Act, and instruct  
14 such office personnel to bring to the attention of an employee  
15 of the office, clinic, or physical location who is required to  
16 make reports to the Department under this Act any reasonable  
17 suspicion that a child known to him or her in his or her  
18 professional or official capacity may be an abused child or a  
19 neglected child. In addition to the above persons required to  
20 report suspected cases of abused or neglected children, any  
21 other person may make a report if such person has reasonable  
22 cause to believe a child may be an abused child or a neglected  
23 child.

24 Any person who enters into employment on and after July 1,  
25 1986 and is mandated by virtue of that employment to report  
26 under this Act, shall sign a statement on a form prescribed by

1 the Department, to the effect that the employee has knowledge  
2 and understanding of the reporting requirements of this Act.  
3 The statement shall be signed prior to commencement of the  
4 employment. The signed statement shall be retained by the  
5 employer. The cost of printing, distribution, and filing of the  
6 statement shall be borne by the employer.

7 The Department shall provide copies of this Act, upon  
8 request, to all employers employing persons who shall be  
9 required under the provisions of this Section to report under  
10 this Act.

11 Any person who knowingly transmits a false report to the  
12 Department commits the offense of disorderly conduct under  
13 subsection (a) (7) of Section 26-1 of the "Criminal Code of  
14 1961". A violation of this provision is a Class 4 felony.

15 Any person who knowingly and willfully violates any  
16 provision of this Section other than a second or subsequent  
17 violation of transmitting a false report as described in the  
18 preceding paragraph, is guilty of a Class 4 felony ~~Class A~~  
19 ~~misdemeanor~~ for a first violation and a Class 3 ~~4~~ felony for a  
20 second or subsequent violation; except that if the person acted  
21 as part of a plan or scheme having as its object the prevention  
22 of discovery of an abused or neglected child by lawful  
23 authorities for the purpose of protecting or insulating any  
24 person or entity from arrest or prosecution, the person is  
25 guilty of a Class 3 ~~4~~ felony for a first offense and a Class 2 ~~3~~  
26 felony for a second or subsequent offense (regardless of



1 whether the second or subsequent offense involves any of the  
2 same facts or persons as the first or other prior offense).

3 A child whose parent, guardian or custodian in good faith  
4 selects and depends upon spiritual means through prayer alone  
5 for the treatment or cure of disease or remedial care may be  
6 considered neglected or abused, but not for the sole reason  
7 that his parent, guardian or custodian accepts and practices  
8 such beliefs.

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

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

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

23 For purposes of this Section "child abuse or neglect"  
24 includes abuse or neglect of an adult resident as defined in  
25 this Act.

26 (Source: P.A. 96-494, eff. 8-14-09; 96-1446, eff. 8-20-10;

1 97-189, eff. 7-22-11; 97-254, eff. 1-1-12; 97-387, eff.  
2 8-15-11; revised 10-4-11.)