



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB0106

Introduced 1/27/2011, by Sen. Dan Kotowski

SYNOPSIS AS INTRODUCED:

325 ILCS 5/4	from Ch. 23, par. 2054
325 ILCS 5/7	from Ch. 23, par. 2057
325 ILCS 5/10	from Ch. 23, par. 2060

Amends the Abused and Neglected Child Reporting Act. Provides that the privileged quality of communication between any professional person required to report a suspected case of child abuse or neglect and his or her patient or client shall not constitute grounds for failure to share information or documents with the Department of Children and Family Services during the course of a child abuse or neglect investigation. Provides that written reports from persons required to report shall be admissible in evidence in any judicial proceeding or administrative hearing (rather than judicial proceeding) relating to child abuse or neglect. Provides that evidence shall not be excluded by reason of any common law or statutory privilege relating to communications between the alleged perpetrator of abuse or neglect, or the child subject of the report and any person who is required to report a suspected case of abuse or neglect under the Act or the person making or investigating the report (rather than communications between the alleged perpetrator of abuse or neglect, or the child subject of the report and the person making or investigating the report). Effective immediately.

LRB097 00164 KTG 40179 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 4, 7, and 10 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 If an allegation is raised to a school board member during
5 the course of an open or closed school board meeting that a
6 child who is enrolled in the school district of which he or she
7 is a board member is an abused child as defined in Section 3 of
8 this Act, the member shall direct or cause the school board to
9 direct the superintendent of the school district or other
10 equivalent school administrator to comply with the
11 requirements of this Act concerning the reporting of child
12 abuse. For purposes of this paragraph, a school board member is
13 granted the authority in his or her individual capacity to
14 direct the superintendent of the school district or other
15 equivalent school administrator to comply with the
16 requirements of this Act concerning the reporting of child
17 abuse.

18 Notwithstanding any other provision of this Act, if an
19 employee of a school district has made a report or caused a
20 report to be made to the Department under this Act involving
21 the conduct of a current or former employee of the school
22 district and a request is made by another school district for
23 the provision of information concerning the job performance or
24 qualifications of the current or former employee because he or
25 she is an applicant for employment with the requesting school
26 district, the general superintendent of the school district to

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

22 Whenever such person is required to report under this Act
23 in his capacity as a member of the staff of a medical or other
24 public or private institution, school, facility or agency, or
25 as a member of the clergy, he shall make report immediately to
26 the Department in accordance with the provisions of this Act

1 and may also notify the person in charge of such institution,
2 school, facility or agency, or church, synagogue, temple,
3 mosque, or other religious institution, or his designated agent
4 that such report has been made. Under no circumstances shall
5 any person in charge of such institution, school, facility or
6 agency, or church, synagogue, temple, mosque, or other
7 religious institution, or his designated agent to whom such
8 notification has been made, exercise any control, restraint,
9 modification or other change in the report or the forwarding of
10 such report to the Department.

11 The privileged quality of communication between any
12 professional person required to report and his patient or
13 client shall not apply to situations involving abused or
14 neglected children and shall not constitute grounds for failure
15 to report as required by this Act or constitute grounds for
16 failure to share information or documents with the Department
17 during the course of a child abuse or neglect investigation.

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

20 In addition to the above persons required to report
21 suspected cases of abused or neglected children, any other
22 person may make a report if such person has reasonable cause to
23 believe a child may be an abused child or a neglected 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". Any person who violates this provision a second or
15 subsequent time shall be guilty of a Class 3 felony.

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

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

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

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

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

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

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

1 (Source: P.A. 95-10, eff. 6-30-07; 95-461, eff. 8-27-07;
2 95-876, eff. 8-21-08; 95-908, eff. 8-26-08; 96-494, eff.
3 8-14-09; 96-1446, eff. 8-20-10.)

4 (325 ILCS 5/7) (from Ch. 23, par. 2057)

5 Sec. 7. Time and manner of making reports. All reports of
6 suspected child abuse or neglect made under this Act shall be
7 made immediately by telephone to the central register
8 established under Section 7.7 on the single, State-wide,
9 toll-free telephone number established in Section 7.6, or in
10 person or by telephone through the nearest Department office.
11 The Department shall, in cooperation with school officials,
12 distribute appropriate materials in school buildings listing
13 the toll-free telephone number established in Section 7.6,
14 including methods of making a report under this Act. The
15 Department may, in cooperation with appropriate members of the
16 clergy, distribute appropriate materials in churches,
17 synagogues, temples, mosques, or other religious buildings
18 listing the toll-free telephone number established in Section
19 7.6, including methods of making a report under this Act.

20 Wherever the Statewide number is posted, there shall also
21 be posted the following notice:

22 "Any person who knowingly transmits a false report to the
23 Department commits the offense of disorderly conduct under
24 subsection (a) (7) of Section 26-1 of the Criminal Code of 1961.
25 A first violation of this subsection is a Class A misdemeanor,

1 punishable by a term of imprisonment for up to one year, or by
2 a fine not to exceed \$1,000, or by both such term and fine. A
3 second or subsequent violation is a Class 4 felony."

4 The report required by this Act shall include, if known,
5 the name and address of the child and his parents or other
6 persons having his custody; the child's age; the nature of the
7 child's condition including any evidence of previous injuries
8 or disabilities; and any other information that the person
9 filing the report believes might be helpful in establishing the
10 cause of such abuse or neglect and the identity of the person
11 believed to have caused such abuse or neglect. Reports made to
12 the central register through the State-wide, toll-free
13 telephone number shall be immediately transmitted by the
14 Department to the appropriate Child Protective Service Unit.
15 All such reports alleging the death of a child, serious injury
16 to a child including, but not limited to, brain damage, skull
17 fractures, subdural hematomas, and internal injuries, torture
18 of a child, malnutrition of a child, and sexual abuse to a
19 child, including, but not limited to, sexual intercourse,
20 sexual exploitation, sexual molestation, and sexually
21 transmitted disease in a child age 12 and under, shall also be
22 immediately transmitted by the Department to the appropriate
23 local law enforcement agency. The Department shall within 24
24 hours orally notify local law enforcement personnel and the
25 office of the State's Attorney of the involved county of the
26 receipt of any report alleging the death of a child, serious

1 injury to a child including, but not limited to, brain damage,
2 skull fractures, subdural hematomas, and, internal injuries,
3 torture of a child, malnutrition of a child, and sexual abuse
4 to a child, including, but not limited to, sexual intercourse,
5 sexual exploitation, sexual molestation, and sexually
6 transmitted disease in a child age twelve and under. All oral
7 reports made by the Department to local law enforcement
8 personnel and the office of the State's Attorney of the
9 involved county shall be confirmed in writing within 24 hours
10 of the oral report. All reports by persons mandated to report
11 under this Act shall be confirmed in writing to the appropriate
12 Child Protective Service Unit, which may be on forms supplied
13 by the Department, within 48 hours of any initial report.

14 Written confirmation reports from persons not required to
15 report by this Act may be made to the appropriate Child
16 Protective Service Unit. Written reports from persons required
17 by this Act to report shall be admissible in evidence in any
18 judicial proceeding or administrative hearing relating to
19 child abuse or neglect. Reports involving known or suspected
20 child abuse or neglect in public or private residential
21 agencies or institutions shall be made and received in the same
22 manner as all other reports made under this Act.

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

25 (Source: P.A. 95-57, eff. 8-10-07; 96-1446, eff. 8-20-10.)

1 (325 ILCS 5/10) (from Ch. 23, par. 2060)

2 Sec. 10. Any person who makes a report or who investigates
3 a report under this Act shall testify fully in any judicial
4 proceeding or administrative hearing resulting from such
5 report, as to any evidence of abuse or neglect, or the cause
6 thereof. Any person who is required to report a suspected case
7 of abuse or neglect under Section 4 of this Act shall testify
8 fully in any administrative hearing resulting from such report,
9 as to any evidence of abuse or neglect or the cause thereof. No
10 evidence shall be excluded by reason of any common law or
11 statutory privilege relating to communications between the
12 alleged perpetrator of abuse or neglect, or the child subject
13 of the report under this Act and any person who is required to
14 report a suspected case of abuse or neglect under Section 4 of
15 this Act or the person making or investigating the report.

16 (Source: P.A. 86-904.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.