



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB2771

Introduced 2/21/2013, by Rep. Dwight Kay

#### SYNOPSIS AS INTRODUCED:

325 ILCS 5/4

from Ch. 23, par. 2054

Amends the Abused and Neglected Child Reporting Act. In a provision stating that the privileged quality of communication between a professional person required to report suspected child abuse or neglect and his or her patient or client shall not apply to situations involving abused or neglected children and shall not constitute grounds for failure to report as required by the Act or 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, creates an exception for privileged communication between an attorney and his or her client. Effective immediately.

LRB098 09132 KTG 39270 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 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), personnel of institutions of  
18 higher education, educational advocate assigned to a child  
19 pursuant to the School Code, member of a school board or the  
20 Chicago Board of Education or the governing body of a private  
21 school (but only to the extent required in accordance with  
22 other provisions of this Section expressly concerning the duty  
23 of school board members to report suspected child abuse),

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

26 Any member of the clergy having reasonable cause to believe

1 that a child known to that member of the clergy in his or her  
2 professional capacity may be an abused child as defined in item  
3 (c) of the definition of "abused child" in Section 3 of this  
4 Act shall immediately report or cause a report to be made to  
5 the Department.

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

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

1 requirements of this Act concerning the reporting of child  
2 abuse.

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

1 school district that if he or she applies for employment with  
2 another school district, the general superintendent of the  
3 former school district, upon the request of the school district  
4 to which the employee applies, shall notify that requesting  
5 school district that the employee is or was the subject of such  
6 a report.

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

22 With the exception of privileged communications between an  
23 attorney and his or her client, the ~~The~~ privileged quality of  
24 communication between any professional person required to  
25 report and his or her patient or client shall not apply to  
26 situations involving abused or neglected children and shall not

1 constitute grounds for failure to report as required by this  
2 Act or constitute grounds for failure to share information or  
3 documents with the Department during the course of a child  
4 abuse or neglect investigation. If requested by the  
5 professional, the Department shall confirm in writing that the  
6 information or documents disclosed by the professional were  
7 gathered in the course of a child abuse or neglect  
8 investigation.

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

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

1 child.

2 Any person who enters into employment on and after July 1,  
3 1986 and is mandated by virtue of that employment to report  
4 under this Act, shall sign a statement on a form prescribed by  
5 the Department, to the effect that the employee has knowledge  
6 and understanding of the reporting requirements of this Act.  
7 The statement shall be signed prior to commencement of the  
8 employment. The signed statement shall be retained by the  
9 employer. The cost of printing, distribution, and filing of the  
10 statement shall be borne by the employer.

11 The Department shall provide copies of this Act, upon  
12 request, to all employers employing persons who shall be  
13 required under the provisions of this Section to report under  
14 this Act.

15 Any person who knowingly transmits a false report to the  
16 Department commits the offense of disorderly conduct under  
17 subsection (a)(7) of Section 26-1 of the Criminal Code of 2012.  
18 A violation of this provision is a Class 4 felony.

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



1 of protecting or insulating any person or entity from arrest or  
2 prosecution, the person is guilty of a Class 4 felony for a  
3 first offense and a Class 3 felony for a second or subsequent  
4 offense (regardless of whether the second or subsequent offense  
5 involves any of the same facts or persons as the first or other  
6 prior offense).

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

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

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

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

1           For purposes of this Section "child abuse or neglect"  
2 includes abuse or neglect of an adult resident as defined in  
3 this Act.

4           (Source: P.A. 96-494, eff. 8-14-09; 96-1446, eff. 8-20-10;  
5 97-189, eff. 7-22-11; 97-254, eff. 1-1-12; 97-387, eff.  
6 8-15-11; 97-711, eff. 6-27-12; 97-813, eff. 7-13-12; 97-1150,  
7 eff. 1-25-13.)

8           Section 99. Effective date. This Act takes effect upon  
9 becoming law.