



Rep. Dan Brady

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09500HB3170ham001

LRB095 06980 RAS 34640 a

1 AMENDMENT TO HOUSE BILL 3170

2 AMENDMENT NO. _____. Amend House Bill 3170 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by adding Sections
5 10-20.40 and 34-18.34 as follows:

6 (105 ILCS 5/10-20.40 new)

7 Sec. 10-20.40. Former employees; report suspected child
8 abuse to new employer.

9 (a) In this Section, "abuse of a minor" means:

10 (1) inflicting, causing to be inflicted, or allowing to
11 be inflicted upon a minor physical injury, by other than
12 accidental means, which causes death, disfigurement,
13 impairment of physical or emotional health, or loss or
14 impairment of any bodily function;

15 (2) creating a substantial risk of physical injury to a
16 minor by other than accidental means which would be likely

1 to cause death, disfigurement, impairment of physical or
2 emotional health, or loss or impairment of any bodily
3 function;

4 (3) committing or allowing to be committed any sex
5 offense against a minor, as such sex offenses are defined
6 in the Criminal Code of 1961 and extending those
7 definitions of sex offenses to include children under 18
8 years of age;

9 (4) committing or allowing to be committed an act or
10 acts of torture upon a minor;

11 (5) inflicting excessive corporal punishment upon a
12 minor;

13 (6) committing or allowing to be committed the offense
14 of female genital mutilation, as defined in Section 12-34
15 of the Criminal Code of 1961, against a minor; or

16 (7) causing to be sold, transferred, distributed, or
17 given to a minor, a controlled substance as defined in
18 Section 102 of the Illinois Controlled Substances Act, in
19 violation of Article IV of the Illinois Controlled
20 Substances Act or in violation of the Methamphetamine
21 Control and Community Protection Act, except for
22 controlled substances that are prescribed in accordance
23 with Article III of the Illinois Controlled Substances Act
24 and are dispensed to a minor in a manner that substantially
25 complies with the prescription.

26 (b) If a school district, upon request, provides

1 information to another school district concerning the job
2 performance or qualifications of an applicant for employment
3 who is a current or former employee of the school district
4 providing the information and that school district suspects
5 that the current or former employee has abused a minor, then
6 that school district shall inform the school district
7 requesting the information of this suspicion.

8 (c) Any person who is required by a school district under
9 this Section to inform a requesting school district of the
10 suspected abuse of a minor by a current or former employee and
11 who willfully fails to do so is guilty of a Class A misdemeanor
12 for a first violation and a Class 4 felony for a second or
13 subsequent violation.

14 (d) Any school district, school board, or person
15 participating in good faith in providing information of
16 suspected abuse of a minor under this Section shall have
17 immunity from any liability, civil, criminal, or otherwise,
18 that might result by reason of such action. For the purpose of
19 any civil or criminal proceedings, the good faith of any
20 persons required to provide information on suspected abuse of a
21 minor under this Section shall be presumed.

22 (e) Any person who suffers damages as a result of a
23 violation of this Section committed by any school district or
24 its representative may bring an action against such school
25 district. The court, in its discretion, may award actual
26 damages, treble actual damages if fraud is proved, injunctive

1 relief, and any other relief that the court deems proper. Such
2 action may be commenced in the county where the school
3 district's administrative office is located or in the county
4 where the transaction or any substantial portion of the
5 transaction occurred. In any action brought by a person under
6 this subsection (e), the court may award, in addition to the
7 relief provided in this subsection (e), reasonable attorney's
8 fees and costs to the prevailing party. Either party to an
9 action under this subsection (e) may request a trial by jury.

10 (105 ILCS 5/34-18.34 new)

11 Sec. 34-18.34. Former employees; report suspected child
12 abuse to new employer.

13 (a) In this Section, "abuse of a minor" means:

14 (1) inflicting, causing to be inflicted, or allowing to
15 be inflicted upon a minor physical injury, by other than
16 accidental means, which causes death, disfigurement,
17 impairment of physical or emotional health, or loss or
18 impairment of any bodily function;

19 (2) creating a substantial risk of physical injury to a
20 minor by other than accidental means which would be likely
21 to cause death, disfigurement, impairment of physical or
22 emotional health, or loss or impairment of any bodily
23 function;

24 (3) committing or allowing to be committed any sex
25 offense against a minor, as such sex offenses are defined

1 in the Criminal Code of 1961 and extending those
2 definitions of sex offenses to include children under 18
3 years of age;

4 (4) committing or allowing to be committed an act or
5 acts of torture upon a minor;

6 (5) inflicting excessive corporal punishment upon a
7 minor;

8 (6) committing or allowing to be committed the offense
9 of female genital mutilation, as defined in Section 12-34
10 of the Criminal Code of 1961, against a minor; or

11 (7) causing to be sold, transferred, distributed, or
12 given to a minor, a controlled substance as defined in
13 Section 102 of the Illinois Controlled Substances Act, in
14 violation of Article IV of the Illinois Controlled
15 Substances Act or in violation of the Methamphetamine
16 Control and Community Protection Act, except for
17 controlled substances that are prescribed in accordance
18 with Article III of the Illinois Controlled Substances Act
19 and are dispensed to a minor in a manner that substantially
20 complies with the prescription.

21 (b) If the school district, upon request, provides
22 information to another school district concerning the job
23 performance or qualifications of an applicant for employment
24 who is a current or former employee of the school district and
25 the school district suspects that the current or former
26 employee has abused a minor, then the school district shall

1 inform the school district requesting the information of this
2 suspicion.

3 (c) Any person who is required by the school district under
4 this Section to inform a requesting school district of the
5 suspected abuse of a minor by a current or former employee and
6 who willfully fails to do so is guilty of a Class A misdemeanor
7 for a first violation and a Class 4 felony for a second or
8 subsequent violation.

9 (d) The school district, the board, and any person
10 participating in good faith in providing information of
11 suspected abuse of a minor under this Section shall have
12 immunity from any liability, civil, criminal, or otherwise,
13 that might result by reason of such action. For the purpose of
14 any civil or criminal proceedings, the good faith of any
15 persons required to provide information on suspected abuse of a
16 minor under this Section shall be presumed.

17 (e) Any person who suffers damages as a result of a
18 violation of this Section committed by the school district or
19 its representative may bring an action against the school
20 district. The court, in its discretion, may award actual
21 damages, treble actual damages if fraud is proved, injunctive
22 relief, and any other relief that the court deems proper. Such
23 action may be commenced in the county where the school district
24 is located or in the county where the transaction or any
25 substantial portion of the transaction occurred. In any action
26 brought by a person under this subsection (e), the court may

1 award, in addition to the relief provided in this subsection
2 (e), reasonable attorney's fees and costs to the prevailing
3 party. Either party to an action under this subsection (e) may
4 request a trial by jury.

5 Section 90. The State Mandates Act is amended by adding
6 Section 8.31 as follows:

7 (30 ILCS 805/8.31 new)

8 Sec. 8.31. Exempt mandate. Notwithstanding Sections 6 and 8
9 of this Act, no reimbursement by the State is required for the
10 implementation of any mandate created by this amendatory Act of
11 the 95th General Assembly.

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.".