



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2605

Introduced 1/21/2010, by Sen. William Delgado

SYNOPSIS AS INTRODUCED:

325 ILCS 5/3
325 ILCS 5/7.16

from Ch. 23, par. 2053
from Ch. 23, par. 2057.16

Amends the Abused and Neglected Child Reporting Act. Changes the definition of the term "subject of report" to mean any child reported to the central register of child abuse and neglect as an alleged victim of child abuse or neglect and the parent or guardian of the alleged victim (rather than any child reported to the central register of child abuse and neglect and his or her parent, guardian, or other person responsible who is also named in the report). Provides that "subject of report" also includes a person responsible for the child's welfare who is also named in the report as an alleged perpetrator of child abuse or neglect. Further provides that within a specified time frame a subject of a report who is indicated for child abuse and neglect may request the Department of Children and Family Services to amend the record or remove the record of the report from the central register.

LRB096 15565 KTG 30796 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 3 and 7.16 as follows:

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

12 "Department" means Department of Children and Family
13 Services.

14 "Local law enforcement agency" means the police of a city,
15 town, village or other incorporated area or the sheriff of an
16 unincorporated area or any sworn officer of the Illinois
17 Department of State Police.

18 "Abused child" means a child whose parent or immediate
19 family member, or any person responsible for the child's
20 welfare, or any individual residing in the same home as the
21 child, or a paramour of the child's parent:

22 (a) inflicts, causes to be inflicted, or allows to be
23 inflicted upon such child physical injury, by other than

1 accidental means, which causes death, disfigurement,
2 impairment of physical or emotional health, or loss or
3 impairment of any bodily function;

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

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

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

16 (e) inflicts excessive corporal punishment;

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

20 (g) causes to be sold, transferred, distributed, or
21 given to such child under 18 years of age, a controlled
22 substance as defined in Section 102 of the Illinois
23 Controlled Substances Act in violation of Article IV of the
24 Illinois Controlled Substances Act or in violation of the
25 Methamphetamine Control and Community Protection Act,
26 except for controlled substances that are prescribed in

1 accordance with Article III of the Illinois Controlled
2 Substances Act and are dispensed to such child in a manner
3 that substantially complies with the prescription.

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

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

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

21 "Child Protective Service Unit" means certain specialized
22 State employees of the Department assigned by the Director to
23 perform the duties and responsibilities as provided under
24 Section 7.2 of this Act.

25 "Person responsible for the child's welfare" means the
26 child's parent; guardian; foster parent; relative caregiver;

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

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

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

22 "An indicated report" means a report made under this Act if
23 an investigation determines that credible evidence of the
24 alleged abuse or neglect exists.

25 "An undetermined report" means any report made under this
26 Act in which it was not possible to initiate or complete an

1 investigation on the basis of information provided to the
2 Department.

3 "Subject of report" means any child reported to the central
4 register of child abuse and neglect established under Section
5 7.7 of this Act as an alleged victim of child abuse or neglect
6 and the ~~his or her~~ parent, ~~or~~ guardian ~~of the alleged victim~~ ~~or~~
7 ~~other person responsible who is also named in the report.~~
8 "Subject of report" also includes a person responsible for the
9 child's welfare who is also named in the report as an alleged
10 perpetrator of child abuse or neglect.

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

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

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

18 (325 ILCS 5/7.16) (from Ch. 23, par. 2057.16)

19 Sec. 7.16. For any investigation or appeal initiated on or
20 after, or pending on July 1, 1998, the following time frames
21 shall apply. Within 60 days after the notification of the
22 completion of the Child Protective Service Unit investigation,
23 determined by the date of the notification sent by the
24 Department, a subject of a report who is indicated for child
25 abuse and neglect may request the Department to amend the

1 record or remove the record of the report from the register.
2 Such request shall be in writing and directed to such person as
3 the Department designates in the notification. If the
4 Department disregards any request to do so or does not act
5 within 10 days, the subject shall have the right to a hearing
6 within the Department to determine whether the record of the
7 report should be amended or removed on the grounds that it is
8 inaccurate or it is being maintained in a manner inconsistent
9 with this Act, except that there shall be no such right to a
10 hearing on the ground of the report's inaccuracy if there has
11 been a court finding of child abuse or neglect, the report's
12 accuracy being conclusively presumed on such finding. Such
13 hearing shall be held within a reasonable time after the
14 subject's request and at a reasonable place and hour. The
15 appropriate Child Protective Service Unit shall be given notice
16 of the hearing. In such hearings, the burden of proving the
17 accuracy and consistency of the record shall be on the
18 Department and the appropriate Child Protective Service Unit.
19 The hearing shall be conducted by the Director or his designee,
20 who is hereby authorized and empowered to order the amendment
21 or removal of the record to make it accurate and consistent
22 with this Act. The decision shall be made, in writing, at the
23 close of the hearing, or within 45 days thereof, and shall
24 state the reasons upon which it is based. Decisions of the
25 Department under this Section are administrative decisions
26 subject to judicial review under the Administrative Review Law.

1 Should the Department grant the request of the subject of
2 the report pursuant to this Section either on administrative
3 review or after administrative hearing to amend an indicated
4 report to an unfounded report, the report shall be released and
5 expunged in accordance with the standards set forth in Section
6 7.14 of this Act.

7 (Source: P.A. 90-15, eff. 6-13-97; 90-608, eff. 6-30-98.)