

AN ACT in relation to children.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Abused and Neglected Child Reporting Act is amended by changing Section 3 as follows:

(325 ILCS 5/3) (from Ch. 23, par. 2053)

Sec. 3. As used in this Act unless the context otherwise requires:

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

"Department" means Department of Children and Family Services.

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

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

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

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

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

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

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

(e) inflicts excessive corporal punishment;

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

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

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

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

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

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

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

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

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

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

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

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

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

investigation on the basis of information provided to the Department.

"Subject of report" means any child reported to the central register of child abuse and neglect established under Section 7.7 of this Act and his or her parent, guardian or other person responsible who is also named in the report.

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

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

(Source: P.A. 94-556, eff. 9-11-05.)

Section 10. The Juvenile Court Act of 1987 is amended by changing Sections 2-3 and 3-5 as follows:

(705 ILCS 405/2-3) (from Ch. 37, par. 802-3)

Sec. 2-3. Neglected or abused minor.

(1) Those who are neglected include:

(a) any minor under 18 years of age who is not receiving the proper or necessary support, education as required by law, or medical or other remedial care recognized under State law as necessary for a minor's well-being, or other care necessary for his or her well-being, including adequate food, clothing and shelter,

or who is abandoned by his or her parents or other person responsible for the minor's welfare, except that a minor shall not be considered neglected for the sole reason that the minor's parent or other person responsible for the minor's welfare has left the minor in the care of an adult relative for any period of time; or

(b) any minor under 18 years of age whose environment is injurious to his or her welfare; or

(c) any newborn infant whose blood, urine, or meconium contains any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act, as now or hereafter amended, or a metabolite of a controlled substance, with the exception of controlled substances or metabolites of such substances, the presence of which in the newborn infant is the result of medical treatment administered to the mother or the newborn infant; or

(d) any minor under the age of 14 years whose parent or other person responsible for the minor's welfare leaves the minor without supervision for an unreasonable period of time without regard for the mental or physical health, safety, or welfare of that minor; or -

(e) any minor who has been provided with interim crisis intervention services under Section 3-5 of this Act and whose parent, guardian, or custodian refuses to permit the minor to return home unless the minor is an immediate

physical danger to himself, herself, or others living in the home.

Whether the minor was left without regard for the mental or physical health, safety, or welfare of that minor or the period of time was unreasonable shall be determined by considering the following factors, including but not limited to:

- (1) the age of the minor;
- (2) the number of minors left at the location;
- (3) special needs of the minor, including whether the minor is physically or mentally handicapped, or otherwise in need of ongoing prescribed medical treatment such as periodic doses of insulin or other medications;
- (4) the duration of time in which the minor was left without supervision;
- (5) the condition and location of the place where the minor was left without supervision;
- (6) the time of day or night when the minor was left without supervision;
- (7) the weather conditions, including whether the minor was left in a location with adequate protection from the natural elements such as adequate heat or light;
- (8) the location of the parent or guardian at the time the minor was left without supervision, the physical distance the minor was from the parent or guardian at the time the minor was without supervision;
- (9) whether the minor's movement was restricted, or the

minor was otherwise locked within a room or other structure;

(10) whether the minor was given a phone number of a person or location to call in the event of an emergency and whether the minor was capable of making an emergency call;

(11) whether there was food and other provision left for the minor;

(12) whether any of the conduct is attributable to economic hardship or illness and the parent, guardian or other person having physical custody or control of the child made a good faith effort to provide for the health and safety of the minor;

(13) the age and physical and mental capabilities of the person or persons who provided supervision for the minor;

(14) whether the minor was left under the supervision of another person;

(15) any other factor that would endanger the health and safety of that particular minor.

A minor shall not be considered neglected for the sole reason that the minor has been relinquished in accordance with the Abandoned Newborn Infant Protection Act.

(2) Those who are abused include any minor under 18 years of age whose parent or immediate family member, or any person responsible for the minor's welfare, or any person who is in the same family or household as the minor, or any individual

residing in the same home as the minor, or a paramour of the minor's parent:

(i) inflicts, causes to be inflicted, or allows to be inflicted upon such minor physical injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

(ii) creates a substantial risk of physical injury to such minor by other than accidental means which would be likely to cause death, disfigurement, impairment of emotional health, or loss or impairment of any bodily function;

(iii) commits or allows to be committed any sex offense against such minor, as such sex offenses are defined in the Criminal Code of 1961, as amended, and extending those definitions of sex offenses to include minors under 18 years of age;

(iv) commits or allows to be committed an act or acts of torture upon such minor; or

(v) inflicts excessive corporal punishment.

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

(3) This Section does not apply to a minor who would be included herein solely for the purpose of qualifying for financial assistance for himself, his parents, guardian or

custodian.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

(705 ILCS 405/3-5) (from Ch. 37, par. 803-5)

Sec. 3-5. Interim crisis intervention services. (a) Any minor who is taken into limited custody, or who independently requests or is referred for assistance, may be provided crisis intervention services by an agency or association, as defined in this Act, provided the association or agency staff (i) immediately investigate the circumstances of the minor and the facts surrounding the minor being taken into custody and promptly explain these facts and circumstances to the minor, and (ii) make a reasonable effort to inform the minor's parent, guardian or custodian of the fact that the minor has been taken into limited custody and where the minor is being kept, and (iii) if the minor consents, make a reasonable effort to transport, arrange for the transportation of, or otherwise release the minor to the parent, guardian or custodian. Upon release of the child who is believed to need or benefit from medical, psychological, psychiatric or social services, the association or agency may inform the minor and the person to whom the minor is released of the nature and location of appropriate services and shall, if requested, assist in establishing contact between the family and other associations or agencies providing such services. If the agency or association is unable by all reasonable efforts to contact a

parent, guardian or custodian, or if the person contacted lives an unreasonable distance away, or if the minor refuses to be taken to his or her home or other appropriate residence, or if the agency or association is otherwise unable despite all reasonable efforts to make arrangements for the safe return of the minor, the minor may be taken to a temporary living arrangement which is in compliance with the Child Care Act of 1969 or which is with persons agreed to by the parents and the agency or association.

(b) An agency or association is authorized to permit a minor to be sheltered in a temporary living arrangement provided the agency seeks to effect the minor's return home or alternative living arrangements agreeable to the minor and the parent, guardian or custodian as soon as practicable. No minor shall be sheltered in a temporary living arrangement for more than 48 hours, excluding Saturdays, Sundays, and court-designated holidays, when the agency has reported the minor as neglected or abused because the parent, guardian, or custodian refuses to permit the child to return home, provided that in all other instances the minor may be sheltered when the agency obtains the consent of the parent, guardian, or custodian or documents its unsuccessful efforts to obtain the consent or authority of the parent, guardian, or custodian, including recording the date and the staff involved in all telephone calls, telegrams, letters, and personal contacts to obtain the consent or authority, in which instances the minor

may be so sheltered for not more than 21 days. If the parent, guardian or custodian refuses to permit the minor to return home, and no other living arrangement agreeable to ~~the minor~~ and the parent, guardian, or custodian can be made, and the parent, guardian, or custodian has not made any other appropriate living arrangement for the child, the agency may deem the minor to be neglected and report the neglect to the Department of Children and Family Services as provided in the Abused and Neglected Child Reporting Act. The Child Protective Service Unit of the Department of Children and Family Services shall begin an investigation of the report within 24 hours after receiving the report and shall determine whether to ~~shall~~ file a petition alleging that the minor is neglected or abused as described in Section 2-3 of this Act. Subject to appropriation, the Department may take the minor into temporary protective custody at any time after receiving the report, provided that the Department shall take temporary protective custody within 48 hours of receiving the report if its investigation is not completed. If the Department of Children and Family Services determines that the minor is not a neglected minor because the minor is an immediate physical danger to himself, herself, or others living in the home, then the Department shall take immediate steps to either secure the minor's immediate admission to a mental health facility, arrange for law enforcement authorities to take temporary custody of the minor as a delinquent minor, or take other

appropriate action to assume protective custody in order to safeguard the minor or others living in the home from immediate physical danger. ~~No minor shall be sheltered in a temporary living arrangement for more than 48 hours, excluding Saturdays, Sundays and court designated holidays, without parental consent unless the agency documents its unsuccessful efforts to contact a parent or guardian, including recording the date and time and staff involved in all telephone calls, telegrams, letters, and personal contacts to obtain the consent or authority, in which case the minor may be so sheltered for not more than 21 days.~~

(c) Any agency or association or employee thereof acting reasonably and in good faith in the care of a minor being provided interim crisis intervention services and shelter care shall be immune from any civil or criminal liability resulting from such care.

(Source: P.A. 85-601.)