

SB3223



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB3223

Introduced 2/11/2014, by Sen. Andy Manar

SYNOPSIS AS INTRODUCED:

325 ILCS 5/7.4

from Ch. 23, par. 2057.4

Amends the Abused and Neglected Child Reporting Act. Provides that during the course of an investigation by the Department of Children and Family Services, information regarding a medical examination of a child and prior medical records relating to the alleged maltreatment or care of the child, including reports of a medical examination of the child and prior medical records of the child or of the child's sibling or siblings and any police reports concerning the child or the child's sibling or siblings, shall be requested by the Department. Provides that the Department shall be provided with these reports within 3 business days after making a written request.

LRB098 18988 KTG 55024 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 7.4 as follows:

6 (325 ILCS 5/7.4) (from Ch. 23, par. 2057.4)

7 Sec. 7.4. (a) The Department shall be capable of receiving
8 reports of suspected child abuse or neglect 24 hours a day, 7
9 days a week. Whenever the Department receives a report alleging
10 that a child is a truant as defined in Section 26-2a of The
11 School Code, as now or hereafter amended, the Department shall
12 notify the superintendent of the school district in which the
13 child resides and the appropriate superintendent of the
14 educational service region. The notification to the
15 appropriate officials by the Department shall not be considered
16 an allegation of abuse or neglect under this Act.

17 (a-5) Beginning January 1, 2010, the Department of Children
18 and Family Services may implement a 5-year demonstration of a
19 "differential response program" in accordance with criteria,
20 standards, and procedures prescribed by rule. The program may
21 provide that, upon receiving a report, the Department shall
22 determine whether to conduct a family assessment or an
23 investigation as appropriate to prevent or provide a remedy for

1 child abuse or neglect.

2 For purposes of this subsection (a-5), "family assessment"
3 means a comprehensive assessment of child safety, risk of
4 subsequent child maltreatment, and family strengths and needs
5 that is applied to a child maltreatment report that does not
6 allege substantial child endangerment. "Family assessment"
7 does not include a determination as to whether child
8 maltreatment occurred but does determine the need for services
9 to address the safety of family members and the risk of
10 subsequent maltreatment.

11 For purposes of this subsection (a-5), "investigation"
12 means fact-gathering related to the current safety of a child
13 and the risk of subsequent abuse or neglect that determines
14 whether a report of suspected child abuse or neglect should be
15 indicated or unfounded and whether child protective services
16 are needed.

17 Under the "differential response program" implemented
18 under this subsection (a-5), the Department:

19 (1) Shall conduct an investigation on reports
20 involving substantial child abuse or neglect.

21 (2) Shall begin an immediate investigation if, at any
22 time when it is using a family assessment response, it
23 determines that there is reason to believe that substantial
24 child abuse or neglect or a serious threat to the child's
25 safety exists.

26 (3) May conduct a family assessment for reports that do

1 not allege substantial child endangerment. In determining
2 that a family assessment is appropriate, the Department may
3 consider issues including, but not limited to, child
4 safety, parental cooperation, and the need for an immediate
5 response.

6 (4) Shall promulgate criteria, standards, and
7 procedures that shall be applied in making this
8 determination, taking into consideration the Child
9 Endangerment Risk Assessment Protocol of the Department.

10 (5) May conduct a family assessment on a report that
11 was initially screened and assigned for an investigation.

12 In determining that a complete investigation is not
13 required, the Department must document the reason for
14 terminating the investigation and notify the local law
15 enforcement agency or the Department of State Police if the
16 local law enforcement agency or Department of State Police is
17 conducting a joint investigation.

18 Once it is determined that a "family assessment" will be
19 implemented, the case shall not be reported to the central
20 register of abuse and neglect reports.

21 During a family assessment, the Department shall collect
22 any available and relevant information to determine child
23 safety, risk of subsequent abuse or neglect, and family
24 strengths.

25 Information collected includes, but is not limited to, when
26 relevant: information with regard to the person reporting the

1 alleged abuse or neglect, including the nature of the
2 reporter's relationship to the child and to the alleged
3 offender, and the basis of the reporter's knowledge for the
4 report; the child allegedly being abused or neglected; the
5 alleged offender; the child's caretaker; and other collateral
6 sources having relevant information related to the alleged
7 abuse or neglect. Information relevant to the assessment must
8 be asked for, and may include:

9 (A) The child's sex and age, prior reports of abuse or
10 neglect, information relating to developmental
11 functioning, credibility of the child's statement, and
12 whether the information provided under this paragraph (A)
13 is consistent with other information collected during the
14 course of the assessment or investigation.

15 (B) The alleged offender's age, a record check for
16 prior reports of abuse or neglect, and criminal charges and
17 convictions. The alleged offender may submit supporting
18 documentation relevant to the assessment.

19 (C) Collateral source information regarding the
20 alleged abuse or neglect and care of the child. Collateral
21 information includes, when relevant: (i) a medical
22 examination of the child; (ii) prior medical records
23 relating to the alleged maltreatment or care of the child
24 maintained by any facility, clinic, or health care
25 professional, and an interview with the treating
26 professionals; and (iii) interviews with the child's

1 caretakers, including the child's parent, guardian, foster
2 parent, child care provider, teachers, counselors, family
3 members, relatives, and other persons who may have
4 knowledge regarding the alleged maltreatment and the care
5 of the child. During the course of an investigation by the
6 Department of Children and Family Services, information
7 regarding items (i) or (ii) of this paragraph (C),
8 including reports of a medical examination of the child and
9 prior medical records of the child or of the child's
10 sibling or siblings and any police reports concerning the
11 child or the child's sibling or siblings, shall be
12 requested by the Department. The Department shall be
13 provided with these reports within 3 business days after
14 making a written request.

15 (D) Information on the existence of domestic abuse and
16 violence in the home of the child, and substance abuse.

17 Nothing in this subsection (a-5) precludes the Department
18 from collecting other relevant information necessary to
19 conduct the assessment or investigation. Nothing in this
20 subsection (a-5) shall be construed to allow the name or
21 identity of a reporter to be disclosed in violation of the
22 protections afforded under Section 7.19 of this Act.

23 After conducting the family assessment, the Department
24 shall determine whether services are needed to address the
25 safety of the child and other family members and the risk of
26 subsequent abuse or neglect.

1 Upon completion of the family assessment, if the Department
2 concludes that no services shall be offered, then the case
3 shall be closed. If the Department concludes that services
4 shall be offered, the Department shall develop a family
5 preservation plan and offer or refer services to the family.

6 At any time during a family assessment, if the Department
7 believes there is any reason to stop the assessment and conduct
8 an investigation based on the information discovered, the
9 Department shall do so.

10 The procedures available to the Department in conducting
11 investigations under this Act shall be followed as appropriate
12 during a family assessment.

13 The Department shall arrange for an independent evaluation
14 of the "differential response program" authorized and
15 implemented under this subsection (a-5) to determine whether it
16 is meeting the goals in accordance with Section 2 of this Act.
17 The Department may adopt administrative rules necessary for the
18 execution of this Section, in accordance with Section 4 of the
19 Children and Family Services Act.

20 The demonstration conducted under this subsection (a-5)
21 shall become a permanent program on January 1, 2015, upon
22 completion of the demonstration project period.

23 (b) (1) The following procedures shall be followed in the
24 investigation of all reports of suspected abuse or neglect
25 of a child, except as provided in subsection (c) of this
26 Section.

1 (2) If, during a family assessment authorized by
2 subsection (a-5) or an investigation, it appears that the
3 immediate safety or well-being of a child is endangered,
4 that the family may flee or the child disappear, or that
5 the facts otherwise so warrant, the Child Protective
6 Service Unit shall commence an investigation immediately,
7 regardless of the time of day or night. All other
8 investigations shall be commenced within 24 hours of
9 receipt of the report. Upon receipt of a report, the Child
10 Protective Service Unit shall conduct a family assessment
11 authorized by subsection (a-5) or begin an initial
12 investigation and make an initial determination whether
13 the report is a good faith indication of alleged child
14 abuse or neglect.

15 (3) Based on an initial investigation, if the Unit
16 determines the report is a good faith indication of alleged
17 child abuse or neglect, then a formal investigation shall
18 commence and, pursuant to Section 7.12 of this Act, may or
19 may not result in an indicated report. The formal
20 investigation shall include: direct contact with the
21 subject or subjects of the report as soon as possible after
22 the report is received; an evaluation of the environment of
23 the child named in the report and any other children in the
24 same environment; a determination of the risk to such
25 children if they continue to remain in the existing
26 environments, as well as a determination of the nature,

1 extent and cause of any condition enumerated in such
2 report; the name, age and condition of other children in
3 the environment; and an evaluation as to whether there
4 would be an immediate and urgent necessity to remove the
5 child from the environment if appropriate family
6 preservation services were provided. After seeing to the
7 safety of the child or children, the Department shall
8 forthwith notify the subjects of the report in writing, of
9 the existence of the report and their rights existing under
10 this Act in regard to amendment or expungement. To fulfill
11 the requirements of this Section, the Child Protective
12 Service Unit shall have the capability of providing or
13 arranging for comprehensive emergency services to children
14 and families at all times of the day or night.

15 (4) If (i) at the conclusion of the Unit's initial
16 investigation of a report, the Unit determines the report
17 to be a good faith indication of alleged child abuse or
18 neglect that warrants a formal investigation by the Unit,
19 the Department, any law enforcement agency or any other
20 responsible agency and (ii) the person who is alleged to
21 have caused the abuse or neglect is employed or otherwise
22 engaged in an activity resulting in frequent contact with
23 children and the alleged abuse or neglect are in the course
24 of such employment or activity, then the Department shall,
25 except in investigations where the Director determines
26 that such notification would be detrimental to the

1 Department's investigation, inform the appropriate
2 supervisor or administrator of that employment or activity
3 that the Unit has commenced a formal investigation pursuant
4 to this Act, which may or may not result in an indicated
5 report. The Department shall also notify the person being
6 investigated, unless the Director determines that such
7 notification would be detrimental to the Department's
8 investigation.

9 (c) In an investigation of a report of suspected abuse or
10 neglect of a child by a school employee at a school or on
11 school grounds, the Department shall make reasonable efforts to
12 follow the following procedures:

13 (1) Investigations involving teachers shall not, to
14 the extent possible, be conducted when the teacher is
15 scheduled to conduct classes. Investigations involving
16 other school employees shall be conducted so as to minimize
17 disruption of the school day. The school employee accused
18 of child abuse or neglect may have his superior, his
19 association or union representative and his attorney
20 present at any interview or meeting at which the teacher or
21 administrator is present. The accused school employee
22 shall be informed by a representative of the Department, at
23 any interview or meeting, of the accused school employee's
24 due process rights and of the steps in the investigation
25 process. The information shall include, but need not
26 necessarily be limited to the right, subject to the

1 approval of the Department, of the school employee to
2 confront the accuser, if the accuser is 14 years of age or
3 older, or the right to review the specific allegations
4 which gave rise to the investigation, and the right to
5 review all materials and evidence that have been submitted
6 to the Department in support of the allegation. These due
7 process rights shall also include the right of the school
8 employee to present countervailing evidence regarding the
9 accusations.

10 (2) If a report of neglect or abuse of a child by a
11 teacher or administrator does not involve allegations of
12 sexual abuse or extreme physical abuse, the Child
13 Protective Service Unit shall make reasonable efforts to
14 conduct the initial investigation in coordination with the
15 employee's supervisor.

16 If the Unit determines that the report is a good faith
17 indication of potential child abuse or neglect, it shall
18 then commence a formal investigation under paragraph (3) of
19 subsection (b) of this Section.

20 (3) If a report of neglect or abuse of a child by a
21 teacher or administrator involves an allegation of sexual
22 abuse or extreme physical abuse, the Child Protective Unit
23 shall commence an investigation under paragraph (2) of
24 subsection (b) of this Section.

25 (c-5) In any instance in which a report is made or caused
26 to made by a school district employee involving the conduct of

1 a person employed by the school district, at the time the
2 report was made, as required under Section 4 of this Act, the
3 Child Protective Service Unit shall send a copy of its final
4 finding report to the general superintendent of that school
5 district.

6 (d) If the Department has contact with an employer, or with
7 a religious institution or religious official having
8 supervisory or hierarchical authority over a member of the
9 clergy accused of the abuse of a child, in the course of its
10 investigation, the Department shall notify the employer or the
11 religious institution or religious official, in writing, when a
12 report is unfounded so that any record of the investigation can
13 be expunged from the employee's or member of the clergy's
14 personnel or other records. The Department shall also notify
15 the employee or the member of the clergy, in writing, that
16 notification has been sent to the employer or to the
17 appropriate religious institution or religious official
18 informing the employer or religious institution or religious
19 official that the Department's investigation has resulted in an
20 unfounded report.

21 (e) Upon request by the Department, the Department of State
22 Police and law enforcement agencies are authorized to provide
23 criminal history record information as defined in the Illinois
24 Uniform Conviction Information Act and information maintained
25 in the adjudicatory and dispositional record system as defined
26 in Section 2605-355 of the Department of State Police Law (20

1 ILCS 2605/2605-355) to properly designated employees of the
2 Department of Children and Family Services if the Department
3 determines the information is necessary to perform its duties
4 under the Abused and Neglected Child Reporting Act, the Child
5 Care Act of 1969, and the Children and Family Services Act. The
6 request shall be in the form and manner required by the
7 Department of State Police. Any information obtained by the
8 Department of Children and Family Services under this Section
9 is confidential and may not be transmitted outside the
10 Department of Children and Family Services other than to a
11 court of competent jurisdiction or unless otherwise authorized
12 by law. Any employee of the Department of Children and Family
13 Services who transmits confidential information in violation
14 of this Section or causes the information to be transmitted in
15 violation of this Section is guilty of a Class A misdemeanor
16 unless the transmittal of the information is authorized by this
17 Section or otherwise authorized by law.

18 (f) For purposes of this Section "child abuse or neglect"
19 includes abuse or neglect of an adult resident as defined in
20 this Act.

21 (Source: P.A. 95-908, eff. 8-26-08; 96-760, eff. 1-1-10;
22 96-1446, eff. 8-20-10.)