

AN ACT concerning courts.

**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 Sections 7.14 and 8.2 and by adding Section 7.22a as follows:

(325 ILCS 5/7.14) (from Ch. 23, par. 2057.14)

Sec. 7.14. All reports in the central register shall be classified in one of three categories: "indicated", "unfounded" or "undetermined", as the case may be. Prior to classifying the report, the Department shall determine whether the report is subject to Department review under Section 7.22a. If the report is subject to Department review, the report shall not be classified as unfounded until the review is completed. Prior to classifying the report, the person making the classification shall determine whether the child named in the report is the subject of an action under Article V of the Juvenile Court Act of 1987 who is in the custody or guardianship of the Department or who has an open intact family services case with the Department or is the subject of an action under Article II of the Juvenile Court Act of 1987. If the child either is the subject of an action under Article V of the Juvenile Court Act of 1987 and is in the custody or

guardianship of the Department or has an open intact family services case with the Department or is the subject of an action under Article II of the Juvenile Court Act of 1987 and the Department intends to classify the report as indicated, the Department shall, within 45 days of classification of the report, transmit a copy of the report to the attorney or guardian ad litem appointed for the child under Section 2-17 of the Juvenile Court Act of 1987 or to a guardian ad litem appointed under Section 5-610 of the Juvenile Court Act of 1987. If the child either is the subject of an action under Article V of the Juvenile Court Act of 1987 and is in the custody or guardianship of the Department or has an open intact family services case with the Department or is the subject of an action under Article II of the Juvenile Court Act of 1987 and the Department intends to classify the report as unfounded, the Department shall, within 45 days of deciding its intent to classify the report as unfounded, transmit a copy of the report and written notice of the Department's intent to the attorney or guardian ad litem appointed for the child under Section 2-17 of the Juvenile Court Act of 1987, or to a guardian ad litem appointed under Section 5-610 of the Juvenile Court Act of 1987. The Department's obligation under this Section to provide reports to a guardian ad litem appointed under Section 5-610 of the Juvenile Court Act of 1987 for a minor with an open intact family services case applies only if the guardian ad litem notified the Department in writing of the representation. All

information identifying the subjects of an unfounded report shall be expunged from the register forthwith, except as provided in Section 7.7. Unfounded reports may only be made available to the Child Protective Service Unit when investigating a subsequent report of suspected abuse or maltreatment involving a child named in the unfounded report; and to the subject of the report, provided the Department has not expunged the file in accordance with Section 7.7. The Child Protective Service Unit shall not indicate the subsequent report solely based upon the existence of the prior unfounded report or reports. Notwithstanding any other provision of law to the contrary, an unfounded report shall not be admissible in any judicial or administrative proceeding or action except for proceedings under Sections 2-10 and 2-21 of the Juvenile Court Act of 1987 involving a petition filed under Section 2-13 of the Juvenile Court Act of 1987 alleging abuse or neglect to the same child, a sibling of the child, or the same perpetrator. Identifying information on all other records shall be removed from the register no later than 5 years after the report is indicated. However, if another report is received involving the same child, his sibling or offspring, or a child in the care of the persons responsible for the child's welfare, or involving the same alleged offender, the identifying information may be maintained in the register until 5 years after the subsequent case or report is closed.

Notwithstanding any other provision of this Section,

identifying information in indicated reports involving serious physical injury to a child as defined by the Department in rules, may be retained longer than 5 years after the report is indicated or after the subsequent case or report is closed, and may not be removed from the register except as provided by the Department in rules. Identifying information in indicated reports involving sexual penetration of a child, sexual molestation of a child, sexual exploitation of a child, torture of a child, or the death of a child, as defined by the Department in rules, shall be retained for a period of not less than 50 years after the report is indicated or after the subsequent case or report is closed.

For purposes of this Section, "child" includes an adult resident as defined in this Act.

(Source: P.A. 99-78, eff. 7-20-15; 99-349, eff. 1-1-16; 100-158, eff. 1-1-18; 100-863, eff. 8-14-18.)

(325 ILCS 5/7.22a new)

Sec. 7.22a. Reports subject to review.

(a) Unfounded reports. Prior to classifying a report under Section 7.14, if the Department intends to classify the report as unfounded, the Department must first determine whether the report is subject to review in accordance with this Section. If the report is subject to review, the review process must be completed prior to classifying the report. The Deputy Director of Child Protection must oversee a review process that ensures

the Department reviews a random sample of at least 5% of child abuse and neglect reports in which the Department intends to be unfounded and any subject child of the report is not of compulsory school age as provided under Section 26-1 of the School Code.

The review must be conducted by an area administrator outside the supervisory chain of the investigator and supervisor. The review shall ensure that the investigation was conducted in accordance with the Department's rules and procedures governing child abuse and neglect investigations and that the final intended finding is consistent with the goal of protecting the health, safety, and best interests of the child in all situations in which the child is vulnerable to child abuse or neglect. If the reviewer determines the investigation or final recommended unfounded finding is inconsistent with the Department's rules and procedures, the reviewer shall document the findings in an Unfounded Review Report and forward the Unfounded Review Report to the investigator, supervisor, area administrator assigned to the case, and Deputy Director of Child Protection to ensure appropriate corrective steps are taken in the case before the final finding is entered. The Unfounded Review Report shall be included in the investigative file.

(b) The Deputy Director of Child Protection must oversee a review process that ensures the Department reviews a random sample of at least 5% of indicated reports in which any subject

child of the report is not of compulsory school age as provided under Section 26-1 of the School Code, the child is not a youth in care, and the Department is not opening a case for any type of services, including situations in which the family refuses services. The review must be conducted by an area administrator outside the supervisory chain of the assigned investigator within 15 days of the final finding being entered. The review shall ensure that the investigation was conducted in accordance with the Department's rules and procedures governing child abuse and neglect investigations and that the decision to not provide services is consistent with the goal of protecting the health, safety, and best interests of the child in all situations in which the child is vulnerable to child abuse or neglect. If the reviewer determines the investigation or final finding is inconsistent with the Department's rules and procedures, the reviewer shall document the findings in an Indicated Review Report and forward the Indicated Review Report to the investigator, supervisor, area administrator assigned to the case, and Deputy Director of Child Protection to ensure appropriate corrective steps are taken in the case. The Indicated Review Report shall be included in the investigative file.

(c) The Department shall document its findings in accordance with subsections (a) and (b), including the number of Unfounded Review Reports and Indicated Review Reports, and the findings and recommendations detailed in the Indicated

Review Reports and Unfounded Review Reports in reports to the General Assembly. The reports shall describe recommendations for systemic reforms based on the findings of the reviews and the steps the Department will take to implement the recommendations. The initial report shall be filed 90 days after the effective date of this amendatory Act of the 101st General Assembly. Subsequent reports shall be filed on December 1 and June 1 of each year.

(325 ILCS 5/8.2) (from Ch. 23, par. 2058.2)

Sec. 8.2. If the Child Protective Service Unit determines, following an investigation made pursuant to Section 7.4 of this Act, that there is credible evidence that the child is abused or neglected, the Department shall assess the family's need for services, and, as necessary, develop, with the family, an appropriate service plan for the family's voluntary acceptance or refusal. In any case where there is evidence that the perpetrator of the abuse or neglect has a substance use disorder as defined in the Substance Use Disorder Act, the Department, when making referrals for drug or alcohol abuse services, shall make such referrals to facilities licensed by the Department of Human Services or the Department of Public Health. The Department shall comply with Section 8.1 by explaining its lack of legal authority to compel the acceptance of services and may explain its concomitant authority to petition the Circuit court under the Juvenile Court Act of 1987

or refer the case to the local law enforcement authority or State's attorney for criminal prosecution.

For purposes of this Act, the term "family preservation services" refers to all services to help families, including adoptive and extended families. Family preservation services shall be offered, where safe and appropriate, to prevent the placement of children in substitute care when the children can be cared for at home or in the custody of the person responsible for the children's welfare without endangering the children's health or safety, to reunite them with their families if so placed when reunification is an appropriate goal, or to maintain an adoptive placement. The term "homemaker" includes emergency caretakers, homemakers, caretakers, housekeepers and chore services. The term "counseling" includes individual therapy, infant stimulation therapy, family therapy, group therapy, self-help groups, drug and alcohol abuse counseling, vocational counseling and post-adoptive services. The term "day care" includes protective day care and day care to meet educational, prevocational or vocational needs. The term "emergency assistance and advocacy" includes coordinated services to secure emergency cash, food, housing and medical assistance or advocacy for other subsistence and family protective needs.

Before July 1, 2000, appropriate family preservation services shall, subject to appropriation, be included in the service plan if the Department has determined that those

services will ensure the child's health and safety, are in the child's best interests, and will not place the child in imminent risk of harm. Beginning July 1, 2000, appropriate family preservation services shall be uniformly available throughout the State. The Department shall promptly notify children and families of the Department's responsibility to offer and provide family preservation services as identified in the service plan. Such plans may include but are not limited to: case management services; homemakers; counseling; parent education; day care; emergency assistance and advocacy assessments; respite care; in-home health care; transportation to obtain any of the above services; and medical assistance. Nothing in this paragraph shall be construed to create a private right of action or claim on the part of any individual or child welfare agency, except that when a child is the subject of an action under Article II of the Juvenile Court Act of 1987 and the child's service plan calls for services to facilitate achievement of the permanency goal, the court hearing the action under Article II of the Juvenile Court Act of 1987 may order the Department to provide the services set out in the plan, if those services are not provided with reasonable promptness and if those services are available.

Each Department field office shall maintain on a local basis directories of services available to children and families in the local area where the Department office is located.

The Department shall refer children and families served pursuant to this Section to private agencies and governmental agencies, where available.

Incentives that discourage or reward a decision to provide family preservation services after a report is indicated or a decision to refer a child for the filing of a petition under Article II of the Juvenile Court Act of 1987 are strictly prohibited and shall not be included in any contract, quality assurance, or performance review process. Incentives include, but are not limited to, monetary benefits, contingencies, and enhanced or diminished performance reviews for individuals or agencies.

Any decision regarding whether to provide family preservation services after an indicated report or to refer a child for the filing of a petition under Article II of the Juvenile Court Act of 1987 shall be based solely on the child's health, safety, and best interests and on any applicable law. If a difference of opinion exists between a private agency and the Department regarding whether to refer for the filing of a petition under Article II of the Juvenile Court Act of 1987, the case shall be referred to the Deputy Director of Child Protection for review and determination.

Any Department employee responsible for reviewing contracts or program plans who is aware of a violation of this Section shall immediately refer the matter to the Inspector General of the Department.

Where there are 2 equal proposals from both a not-for-profit and a for-profit agency to provide services, the Department shall give preference to the proposal from the not-for-profit agency.

No service plan shall compel any child or parent to engage in any activity or refrain from any activity which is not reasonably related to remedying a condition or conditions that gave rise or which could give rise to any finding of child abuse or neglect.

(Source: P.A. 100-759, eff. 1-1-19.)

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