



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3168

by Rep. Juliana Stratton

SYNOPSIS AS INTRODUCED:

325 ILCS 5/7.14	from Ch. 23, par. 2057.14
325 ILCS 5/7.16	from Ch. 23, par. 2057.16
325 ILCS 5/7.22	
325 ILCS 5/11.1	from Ch. 23, par. 2061.1
705 ILCS 405/5-610	

Amends the Abused and Neglected Child Reporting Act. In a provision that requires the classification of all reports in the central register, provides that prior to classifying a report, the person making the classification shall determine whether the child named in the report is the subject of a juvenile delinquency action under the Juvenile Court Act of 1987 with an open placement or intact family services case with the Department of Children and Family Services or the subject of an abuse, neglect, or dependent minor action under the Juvenile Court Act of 1987. With regard to a report that the Department intends to classify as indicated, requires the Department to transmit a copy of the report with a written notice of the Department's intent to the child's attorney or appointed guardian ad litem within 45 days of the classification of the report. Sets forth similar notice requirements with regard to unfounded reports. Permits a person appointed under the Juvenile Court Act of 1987 as the guardian ad litem of a minor who has an open placement or intact family services case and who is the subject of a report or records made pursuant to the Act to have access to certain records concerning reports of child abuse and neglect. Amends the Juvenile Court Act of 1987. Provides that a guardian ad litem appointed under the Act for a minor with an open placement or intact family services case with the Department is entitled to receive copies of any and all classified reports of child abuse or neglect made pursuant to the Abused and Neglected Child Reporting Act.

LRB100 10198 KTG 20380 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 Sections 7.14, 7.16, 7.22, and 11.1 as
6 follows:

7 (325 ILCS 5/7.14) (from Ch. 23, par. 2057.14)

8 Sec. 7.14. All reports in the central register shall be
9 classified in one of three categories: "indicated",
10 "unfounded" or "undetermined", as the case may be. Prior to
11 classifying the report, the person making the classification
12 shall determine whether the child named in the report is the
13 subject of an action under Article V of the Juvenile Court Act
14 of 1987 with an open placement or intact family services case
15 with the Department or the subject of an action under Article
16 II of the Juvenile Court Act of 1987. If the child is either
17 the subject of an action under Article V of the Juvenile Court
18 Act of 1987 with an open placement or intact family services
19 case with the Department or the subject of an action under
20 Article II of the Juvenile Court Act of 1987 and the Department
21 intends to classify the report as indicated, the Department
22 shall, within 45 days of classification of the report, transmit
23 a copy of the report to the attorney or guardian ad litem

1 appointed for the child under Section 2-17 of the Juvenile
2 Court Act of 1987 or to a guardian ad litem appointed under
3 Section 5-610 of the Juvenile Court Act of 1987. If the child
4 is either the subject of an action under Article V of the
5 Juvenile Court Act of 1987 with an open placement or intact
6 family services case with the Department or the subject of an
7 action under Article II of the Juvenile Court Act of 1987 and
8 the Department intends to classify the report as unfounded, the
9 Department shall, within 45 days of deciding its intent to
10 classify the report as unfounded, transmit a copy of the report
11 and written notice of the Department's intent to the attorney
12 or guardian ad litem appointed for the child under Section 2-17
13 of the Juvenile Court Act of 1987, or to a guardian ad litem
14 appointed under Section 5-610 of the Juvenile Court Act of
15 1987. All information identifying the subjects of an unfounded
16 report shall be expunged from the register forthwith, except as
17 provided in Section 7.7. Unfounded reports may only be made
18 available to the Child Protective Service Unit when
19 investigating a subsequent report of suspected abuse or
20 maltreatment involving a child named in the unfounded report;
21 and to the subject of the report, provided the Department has
22 not expunged the file in accordance with Section 7.7. The Child
23 Protective Service Unit shall not indicate the subsequent
24 report solely based upon the existence of the prior unfounded
25 report or reports. Notwithstanding any other provision of law
26 to the contrary, an unfounded report shall not be admissible in

1 any judicial or administrative proceeding or action except for
2 proceedings under Sections 2-10 and 2-21 of the Juvenile Court
3 Act of 1987 involving a petition filed under Section 2-13 of
4 the Juvenile Court Act of 1987 alleging abuse or neglect to the
5 same child, a sibling of the child, or the same perpetrator.
6 Identifying information on all other records shall be removed
7 from the register no later than 5 years after the report is
8 indicated. However, if another report is received involving the
9 same child, his sibling or offspring, or a child in the care of
10 the persons responsible for the child's welfare, or involving
11 the same alleged offender, the identifying information may be
12 maintained in the register until 5 years after the subsequent
13 case or report is closed.

14 Notwithstanding any other provision of this Section,
15 identifying information in indicated reports involving serious
16 physical injury to a child as defined by the Department in
17 rules, may be retained longer than 5 years after the report is
18 indicated or after the subsequent case or report is closed, and
19 may not be removed from the register except as provided by the
20 Department in rules. Identifying information in indicated
21 reports involving sexual penetration of a child, sexual
22 molestation of a child, sexual exploitation of a child, torture
23 of a child, or the death of a child, as defined by the
24 Department in rules, shall be retained for a period of not less
25 than 50 years after the report is indicated or after the
26 subsequent case or report is closed.

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

3 (Source: P.A. 98-453, eff. 8-16-13; 98-807, eff. 8-1-14; 99-78,
4 eff. 7-20-15; 99-349, eff. 1-1-16.)

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

6 Sec. 7.16. For any investigation or appeal initiated on or
7 after, or pending on July 1, 1998, the following time frames
8 shall apply. Within 60 days after the notification of the
9 completion of the Child Protective Service Unit investigation,
10 determined by the date of the notification sent by the
11 Department, the perpetrator named in the notification may
12 request the Department to amend the record or remove the record
13 of the report from the register, except that the 60-day
14 deadline for filing a request to amend the record or remove the
15 record of the report from the State Central Register shall be
16 tolled until after the conclusion of any criminal court action
17 in the circuit court or after adjudication in any juvenile
18 court action concerning the circumstances that give rise to an
19 indicated report. Such request shall be in writing and directed
20 to such person as the Department designates in the notification
21 letter notifying the perpetrator of the indicated finding. The
22 perpetrator shall have the right to a timely hearing within the
23 Department to determine whether the record of the report should
24 be amended or removed on the grounds that it is inaccurate or
25 it is being maintained in a manner inconsistent with this Act,

1 except that there shall be no such right to a hearing on the
2 ground of the report's inaccuracy if there has been a court
3 finding of child abuse or neglect or a criminal finding of
4 guilt as to the perpetrator. Such hearing shall be held within
5 a reasonable time after the perpetrator's request and at a
6 reasonable place and hour. The appropriate Child Protective
7 Service Unit shall be given notice of the hearing. If the
8 minor, who is the victim named in the report sought to be
9 amended or removed from the State Central Register, is the
10 subject of a pending action under Article V of the Juvenile
11 Court Act of 1987 with an open placement or intact family
12 services case with the Department or Article II of the Juvenile
13 Court Act of 1987, and the report was made while a guardian ad
14 litem was appointed for the minor under Section 5-610 or 2-17
15 of the Juvenile Court Act of 1987, then the minor shall,
16 through the minor's attorney or guardian ad litem appointed
17 under Section 5-610 or 2-17 of the Juvenile Court Act of 1987,
18 have the right to participate and be heard in such hearing as
19 defined under the Department's rules. In such hearings, the
20 burden of proving the accuracy and consistency of the record
21 shall be on the Department and the appropriate Child Protective
22 Service Unit. The hearing shall be conducted by the Director or
23 his designee, who is hereby authorized and empowered to order
24 the amendment or removal of the record to make it accurate and
25 consistent with this Act. The decision shall be made, in
26 writing, at the close of the hearing, or within 60 days

1 thereof, and shall state the reasons upon which it is based.
2 Decisions of the Department under this Section are
3 administrative decisions subject to judicial review under the
4 Administrative Review Law.

5 Should the Department grant the request of the perpetrator
6 pursuant to this Section either on administrative review or
7 after an administrative hearing to amend an indicated report to
8 an unfounded report, the report shall be released and expunged
9 in accordance with the standards set forth in Section 7.14 of
10 this Act.

11 (Source: P.A. 98-453, eff. 8-16-13; 98-487, eff. 1-1-14;
12 98-756, eff. 7-16-14.)

13 (325 ILCS 5/7.22)

14 Sec. 7.22. Reviews of unfounded reports.

15 (a) Whenever the Department determines that a reported
16 incident of child abuse or neglect will be "unfounded", the
17 Department shall forward a copy of the report and written
18 notice of the Department's intent to classify the report as
19 unfounded to a guardian ad litem appointed under Section 5-610
20 of the Juvenile Court Act of 1987 for a minor with an open
21 placement or intact family services case with the Department or
22 to the minor's attorney or guardian ad litem appointed under
23 Section 2-17 of the Juvenile Court Act of 1987. The minor's
24 attorney or guardian ad litem may request a review of the
25 investigation within 10 days of receipt of the report and

1 written notice of the Department's intent to classify the
2 report as unfounded, as provided in Section 7.14 of this Act,
3 if the subject of the report is also the minor for whom the
4 attorney or guardian ad litem has been appointed.

5 (b) Reviews requested under subsection (a) may be requested
6 by sending a request via U.S. Mail, postmarked within 10 days
7 after notice of the Department's intent to classify the report
8 as unfounded, or by faxing a request within 10 days after
9 notice of the Department's intent to classify the report as
10 unfounded. The date of notification of the Department's intent
11 to classify the report as unfounded is the date the attorney or
12 guardian ad litem received a copy of the report and written
13 notice from the Department. Following the review, the
14 Department shall inform the minor's attorney or guardian ad
15 litem as to whether the report will be classified as indicated
16 or unfounded. The minor's attorney or guardian ad litem shall
17 also receive a final finding notice from the State Central
18 Register.

19 (c) By January 1, 2014, the Department shall promulgate
20 rules addressing reviews requested under subsection (a). The
21 rules shall provide that a review requested under subsection
22 (a) must occur before the report is classified and a final
23 finding is entered in the central register and that the review
24 must be conducted by a Department employee outside the
25 supervisory chain of the assigned investigator.

26 (Source: P.A. 98-453, eff. 8-16-13; 98-807, eff. 8-1-14.)

1 (325 ILCS 5/11.1) (from Ch. 23, par. 2061.1)

2 Sec. 11.1. Access to records.

3 (a) A person shall have access to the records described in
4 Section 11 only in furtherance of purposes directly connected
5 with the administration of this Act or the Intergovernmental
6 Missing Child Recovery Act of 1984. Those persons and purposes
7 for access include:

8 (1) Department staff in the furtherance of their
9 responsibilities under this Act, or for the purpose of
10 completing background investigations on persons or
11 agencies licensed by the Department or with whom the
12 Department contracts for the provision of child welfare
13 services.

14 (2) A law enforcement agency investigating known or
15 suspected child abuse or neglect, known or suspected
16 involvement with child pornography, known or suspected
17 criminal sexual assault, known or suspected criminal
18 sexual abuse, or any other sexual offense when a child is
19 alleged to be involved.

20 (3) The Department of State Police when administering
21 the provisions of the Intergovernmental Missing Child
22 Recovery Act of 1984.

23 (4) A physician who has before him a child whom he
24 reasonably suspects may be abused or neglected.

25 (5) A person authorized under Section 5 of this Act to

1 place a child in temporary protective custody when such
2 person requires the information in the report or record to
3 determine whether to place the child in temporary
4 protective custody.

5 (6) A person having the legal responsibility or
6 authorization to care for, treat, or supervise a child, or
7 a parent, prospective adoptive parent, foster parent,
8 guardian, or other person responsible for the child's
9 welfare, who is the subject of a report.

10 (7) Except in regard to harmful or detrimental
11 information as provided in Section 7.19, any subject of the
12 report, and if the subject of the report is a minor, his
13 guardian or guardian ad litem.

14 (8) A court, upon its finding that access to such
15 records may be necessary for the determination of an issue
16 before such court; however, such access shall be limited to
17 in camera inspection, unless the court determines that
18 public disclosure of the information contained therein is
19 necessary for the resolution of an issue then pending
20 before it.

21 (8.1) A probation officer or other authorized
22 representative of a probation or court services department
23 conducting an investigation ordered by a court under the
24 Juvenile Court Act of 1987.

25 (9) A grand jury, upon its determination that access to
26 such records is necessary in the conduct of its official

1 business.

2 (10) Any person authorized by the Director, in writing,
3 for audit or bona fide research purposes.

4 (11) Law enforcement agencies, coroners or medical
5 examiners, physicians, courts, school superintendents and
6 child welfare agencies in other states who are responsible
7 for child abuse or neglect investigations or background
8 investigations.

9 (12) The Department of Professional Regulation, the
10 State Board of Education and school superintendents in
11 Illinois, who may use or disclose information from the
12 records as they deem necessary to conduct investigations or
13 take disciplinary action, as provided by law.

14 (13) A coroner or medical examiner who has reason to
15 believe that a child has died as the result of abuse or
16 neglect.

17 (14) The Director of a State-operated facility when an
18 employee of that facility is the perpetrator in an
19 indicated report.

20 (15) The operator of a licensed child care facility or
21 a facility licensed by the Department of Human Services (as
22 successor to the Department of Alcoholism and Substance
23 Abuse) in which children reside when a current or
24 prospective employee of that facility is the perpetrator in
25 an indicated child abuse or neglect report, pursuant to
26 Section 4.3 of the Child Care Act of 1969.

1 (16) Members of a multidisciplinary team in the
2 furtherance of its responsibilities under subsection (b)
3 of Section 7.1. All reports concerning child abuse and
4 neglect made available to members of such
5 multidisciplinary teams and all records generated as a
6 result of such reports shall be confidential and shall not
7 be disclosed, except as specifically authorized by this Act
8 or other applicable law. It is a Class A misdemeanor to
9 permit, assist or encourage the unauthorized release of any
10 information contained in such reports or records. Nothing
11 contained in this Section prevents the sharing of reports
12 or records relating or pertaining to the death of a minor
13 under the care of or receiving services from the Department
14 of Children and Family Services and under the jurisdiction
15 of the juvenile court with the juvenile court, the State's
16 Attorney, and the minor's attorney.

17 (17) The Department of Human Services, as provided in
18 Section 17 of the Rehabilitation of Persons with
19 Disabilities Act.

20 (18) Any other agency or investigative body, including
21 the Department of Public Health and a local board of
22 health, authorized by State law to conduct an investigation
23 into the quality of care provided to children in hospitals
24 and other State regulated care facilities. The access to
25 and release of information from such records shall be
26 subject to the approval of the Director of the Department

1 or his designee.

2 (19) The person appointed, under Section 2-17 of the
3 Juvenile Court Act of 1987, as the guardian ad litem of a
4 minor who is the subject of a report or records under this
5 Act; or the person appointed, under Section 5-610 of the
6 Juvenile Court Act of 1987, as the guardian ad litem of a
7 minor who has an open placement or intact family services
8 case with the Department and who is the subject of a report
9 or records made pursuant to this Act.

10 (20) The Department of Human Services, as provided in
11 Section 10 of the Early Intervention Services System Act,
12 and the operator of a facility providing early intervention
13 services pursuant to that Act, for the purpose of
14 determining whether a current or prospective employee who
15 provides or may provide direct services under that Act is
16 the perpetrator in an indicated report of child abuse or
17 neglect filed under this Act.

18 (b) Nothing contained in this Act prevents the sharing or
19 disclosure of information or records relating or pertaining to
20 juveniles subject to the provisions of the Serious Habitual
21 Offender Comprehensive Action Program when that information is
22 used to assist in the early identification and treatment of
23 habitual juvenile offenders.

24 (c) To the extent that persons or agencies are given access
25 to information pursuant to this Section, those persons or
26 agencies may give this information to and receive this

1 information from each other in order to facilitate an
2 investigation conducted by those persons or agencies.

3 (Source: P.A. 99-143, eff. 7-27-15.)

4 Section 10. The Juvenile Court Act of 1987 is amended by
5 changing Section 5-610 as follows:

6 (705 ILCS 405/5-610)

7 Sec. 5-610. Guardian ad litem and appointment of attorney.

8 (1) The court may appoint a guardian ad litem for the minor
9 whenever it finds that there may be a conflict of interest
10 between the minor and his or her parent, guardian or legal
11 custodian or that it is otherwise in the minor's interest to do
12 so.

13 (2) Unless the guardian ad litem is an attorney, he or she
14 shall be represented by counsel.

15 (3) The reasonable fees of a guardian ad litem appointed
16 under this Section shall be fixed by the court and charged to
17 the parents of the minor, to the extent they are able to pay.
18 If the parents are unable to pay those fees, they shall be paid
19 from the general fund of the county.

20 (4) If, during the court proceedings, the parents,
21 guardian, or legal custodian prove that he or she has an actual
22 conflict of interest with the minor in that delinquency
23 proceeding and that the parents, guardian, or legal custodian
24 are indigent, the court shall appoint a separate attorney for

1 that parent, guardian, or legal custodian.

2 (5) A guardian ad litem appointed under this Section for a
3 minor with an open placement or intact family services case
4 with the Department of Children and Family Services is entitled
5 to receive copies of any and all classified reports of child
6 abuse or neglect made pursuant to the Abused and Neglected
7 Child Reporting Act in which the minor, who is the subject of
8 the report under the Abused and Neglected Child Reporting Act,
9 is also a minor for whom the guardian ad litem is appointed
10 under this Act.

11 (Source: P.A. 90-590, eff. 1-1-99.)