



Rep. Juliana Stratton

**Filed: 3/16/2017**

10000HB3168ham001

LRB100 10198 KTG 23695 a

1 AMENDMENT TO HOUSE BILL 3168

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3168 by replacing  
3 everything after the enacting clause with the following:

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 who is in the custody or guardianship of the Department  
15 or who has an open intact family services case with the  
16 Department or is the subject of an action under Article II of

1 the Juvenile Court Act of 1987. If the child is either the  
2 subject of an action under Article V of the Juvenile Court Act  
3 of 1987 and is in the custody or guardianship of the Department  
4 or has an open intact family services case with the Department  
5 or is the subject of an action under Article II of the Juvenile  
6 Court Act of 1987 and the Department intends to classify the  
7 report as indicated, the Department shall, within 45 days of  
8 classification of the report, transmit a copy of the report to  
9 the attorney or guardian ad litem appointed for the child under  
10 Section 2-17 of the Juvenile Court Act of 1987 or to a guardian  
11 ad litem appointed under Section 5-610 of the Juvenile Court  
12 Act of 1987. If the child is either the subject of an action  
13 under Article V of the Juvenile Court Act of 1987 and is in the  
14 custody or guardianship of the Department or has an open intact  
15 family services case with the Department or is the subject of  
16 an action under Article II of the Juvenile Court Act of 1987  
17 and the Department intends to classify the report as unfounded,  
18 the Department shall, within 45 days of deciding its intent to  
19 classify the report as unfounded, transmit a copy of the report  
20 and written notice of the Department's intent to the attorney  
21 or guardian ad litem appointed for the child under Section 2-17  
22 of the Juvenile Court Act of 1987, or to a guardian ad litem  
23 appointed under Section 5-610 of the Juvenile Court Act of  
24 1987. The Department's obligation under this Section to provide  
25 reports to a guardian ad litem appointed for a minor under  
26 Section 5-610 of the Juvenile Court Act of 1987 or for a minor

1 with an open intact family services case applies only if the  
2 guardian ad litem notified the Department in writing of the  
3 representation. All information identifying the subjects of an  
4 unfounded report shall be expunged from the register forthwith,  
5 except as provided in Section 7.7. Unfounded reports may only  
6 be made available to the Child Protective Service Unit when  
7 investigating a subsequent report of suspected abuse or  
8 maltreatment involving a child named in the unfounded report;  
9 and to the subject of the report, provided the Department has  
10 not expunged the file in accordance with Section 7.7. The Child  
11 Protective Service Unit shall not indicate the subsequent  
12 report solely based upon the existence of the prior unfounded  
13 report or reports. Notwithstanding any other provision of law  
14 to the contrary, an unfounded report shall not be admissible in  
15 any judicial or administrative proceeding or action except for  
16 proceedings under Sections 2-10 and 2-21 of the Juvenile Court  
17 Act of 1987 involving a petition filed under Section 2-13 of  
18 the Juvenile Court Act of 1987 alleging abuse or neglect to the  
19 same child, a sibling of the child, or the same perpetrator.  
20 Identifying information on all other records shall be removed  
21 from the register no later than 5 years after the report is  
22 indicated. However, if another report is received involving the  
23 same child, his sibling or offspring, or a child in the care of  
24 the persons responsible for the child's welfare, or involving  
25 the same alleged offender, the identifying information may be  
26 maintained in the register until 5 years after the subsequent

1 case or report is closed.

2 Notwithstanding any other provision of this Section,  
3 identifying information in indicated reports involving serious  
4 physical injury to a child as defined by the Department in  
5 rules, may be retained longer than 5 years after the report is  
6 indicated or after the subsequent case or report is closed, and  
7 may not be removed from the register except as provided by the  
8 Department in rules. Identifying information in indicated  
9 reports involving sexual penetration of a child, sexual  
10 molestation of a child, sexual exploitation of a child, torture  
11 of a child, or the death of a child, as defined by the  
12 Department in rules, shall be retained for a period of not less  
13 than 50 years after the report is indicated or after the  
14 subsequent case or report is closed.

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

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

19 (325 ILCS 5/7.16) (from Ch. 23, par. 2057.16)

20 Sec. 7.16. For any investigation or appeal initiated on or  
21 after, or pending on July 1, 1998, the following time frames  
22 shall apply. Within 60 days after the notification of the  
23 completion of the Child Protective Service Unit investigation,  
24 determined by the date of the notification sent by the  
25 Department, the perpetrator named in the notification may

1 request the Department to amend the record or remove the record  
2 of the report from the register, except that the 60-day  
3 deadline for filing a request to amend the record or remove the  
4 record of the report from the State Central Register shall be  
5 tolled until after the conclusion of any criminal court action  
6 in the circuit court or after adjudication in any juvenile  
7 court action concerning the circumstances that give rise to an  
8 indicated report. Such request shall be in writing and directed  
9 to such person as the Department designates in the notification  
10 letter notifying the perpetrator of the indicated finding. The  
11 perpetrator shall have the right to a timely hearing within the  
12 Department to determine whether the record of the report should  
13 be amended or removed on the grounds that it is inaccurate or  
14 it is being maintained in a manner inconsistent with this Act,  
15 except that there shall be no such right to a hearing on the  
16 ground of the report's inaccuracy if there has been a court  
17 finding of child abuse or neglect or a criminal finding of  
18 guilt as to the perpetrator. Such hearing shall be held within  
19 a reasonable time after the perpetrator's request and at a  
20 reasonable place and hour. The appropriate Child Protective  
21 Service Unit shall be given notice of the hearing. If the  
22 minor, who is the victim named in the report sought to be  
23 amended or removed from the State Central Register, is the  
24 subject of a pending action under Article V of the Juvenile  
25 Court Act of 1987 and is in the custody or guardianship of the  
26 Department or has an open intact family services case with the

1 Department or is the subject of a pending action under Article  
2 II of the Juvenile Court Act of 1987, and the report was made  
3 while a guardian ad litem was appointed for the minor under  
4 Section 5-610 or 2-17 of the Juvenile Court Act of 1987, then  
5 the minor shall, through the minor's attorney or guardian ad  
6 litem appointed under Section 5-610 or 2-17 of the Juvenile  
7 Court Act of 1987, have the right to participate and be heard  
8 in such hearing as defined under the Department's rules. The  
9 Department's obligation under this Section to provide a minor  
10 with a guardian ad litem appointed under Section 5-610 of the  
11 Juvenile Court Act of 1987 and an open intact family services  
12 case with the right to participate and be heard applies only if  
13 the guardian ad litem notified the Department in writing of the  
14 representation. In such hearings, the burden of proving the  
15 accuracy and consistency of the record shall be on the  
16 Department and the appropriate Child Protective Service Unit.  
17 The hearing shall be conducted by the Director or his designee,  
18 who is hereby authorized and empowered to order the amendment  
19 or removal of the record to make it accurate and consistent  
20 with this Act. The decision shall be made, in writing, at the  
21 close of the hearing, or within 60 days thereof, and shall  
22 state the reasons upon which it is based. Decisions of the  
23 Department under this Section are administrative decisions  
24 subject to judicial review under the Administrative Review Law.

25 Should the Department grant the request of the perpetrator  
26 pursuant to this Section either on administrative review or

1 after an administrative hearing to amend an indicated report to  
2 an unfounded report, the report shall be released and expunged  
3 in accordance with the standards set forth in Section 7.14 of  
4 this Act.

5 (Source: P.A. 98-453, eff. 8-16-13; 98-487, eff. 1-1-14;  
6 98-756, eff. 7-16-14.)

7 (325 ILCS 5/7.22)

8 Sec. 7.22. Reviews of unfounded reports.

9 (a) Whenever the Department determines that a reported  
10 incident of child abuse or neglect will be "unfounded", the  
11 Department shall forward a copy of the report and written  
12 notice of the Department's intent to classify the report as  
13 unfounded to a guardian ad litem appointed under Section 5-610  
14 of the Juvenile Court Act of 1987 for a minor who is in the  
15 custody or guardianship of the Department or who has an open  
16 intact family services case with the Department or the minor's  
17 attorney or guardian ad litem appointed under Section 2-17 of  
18 the Juvenile Court Act of 1987. The Department's obligation  
19 under this subsection to provide reports to a guardian ad litem  
20 appointed for a minor under Section 5-610 of the Juvenile Court  
21 Act of 1987 or for a minor with an open intact family services  
22 case applies only if the guardian ad litem notified the  
23 Department in writing of the representation. The minor's  
24 attorney or guardian ad litem who receives a report pursuant to  
25 this subsection may request a review of the investigation

1 within 10 days of receipt of the report and written notice of  
2 the Department's intent to classify the report as unfounded, as  
3 provided in Section 7.14 of this Act, if the subject of the  
4 report is also the minor for whom the attorney or guardian ad  
5 litem has been appointed.

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

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

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

2 (325 ILCS 5/11.1) (from Ch. 23, par. 2061.1)

3 Sec. 11.1. Access to records.

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

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

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

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

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

1           (5) A person authorized under Section 5 of this Act to  
2 place a child in temporary protective custody when such  
3 person requires the information in the report or record to  
4 determine whether to place the child in temporary  
5 protective custody.

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

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

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

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

26           (9) A grand jury, upon its determination that access to

1 such records is necessary in the conduct of its official  
2 business.

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

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

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

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

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

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

1 Section 4.3 of the Child Care Act of 1969.

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

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

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

1 subject to the approval of the Director of the Department  
2 or his designee.

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

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

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

26 (c) To the extent that persons or agencies are given access

1 to information pursuant to this Section, those persons or  
2 agencies may give this information to and receive this  
3 information from each other in order to facilitate an  
4 investigation conducted by those persons or agencies.

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

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

8 (705 ILCS 405/5-610)

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

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

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

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

22 (4) If, during the court proceedings, the parents,  
23 guardian, or legal custodian prove that he or she has an actual  
24 conflict of interest with the minor in that delinquency

1 proceeding and that the parents, guardian, or legal custodian  
2 are indigent, the court shall appoint a separate attorney for  
3 that parent, guardian, or legal custodian.

4 (5) A guardian ad litem appointed under this Section for a  
5 minor who is in the custody or guardianship of the Department  
6 of Children and Family Services or who has an open intact  
7 family services case with the Department of Children and Family  
8 Services is entitled to receive copies of any and all  
9 classified reports of child abuse or neglect made pursuant to  
10 the Abused and Neglected Child Reporting Act in which the  
11 minor, who is the subject of the report under the Abused and  
12 Neglected Child Reporting Act, is also a minor for whom the  
13 guardian ad litem is appointed under this Act. The Department  
14 of Children and Family Services' obligation under this  
15 subsection to provide reports to a guardian ad litem applies  
16 only if the guardian ad litem notified the Department in  
17 writing of the representation.

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