



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB2686

by Rep. Margo McDermed

#### SYNOPSIS AS INTRODUCED:

325 ILCS 5/3	from Ch. 23, par. 2053
325 ILCS 5/4	
325 ILCS 5/4.02	from Ch. 23, par. 2054.02
325 ILCS 5/4.6 new	

Amends the Abused and Neglected Child Reporting Act. Adds youth athletic program workers as mandated reporters. Provides that recreational or athletic program or facility personnel who are required to report child abuse must complete mandated reporter training by a provider or agency with expertise in recognizing and reporting child abuse. Enhances the criminal penalty for any person who knowingly and willfully violates certain reporting requirements for mandated reporters. Makes a violation a Class 4 felony (rather than a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation), except that if the person acted as part of a plan or scheme having as its object the prevention of discovery of an abused or neglected child by lawful authorities for the purpose of protecting or insulating any person or entity from arrest or prosecution, the person commits a Class 3 felony (rather than a Class 4 felony for a first offense and a Class 3 felony for a second or subsequent offense). Enhances the criminal penalty for any other person required to report suspected child abuse or neglect who willfully fails to report such abuse or neglect by making it a Class 4 felony (rather than a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation). Requires a youth athletic program to have a background check performed for each youth athletic program worker by a reputable, licensed third-party vendor. Effective immediately.

LRB101 07734 KTG 52783 b

CORRECTIONAL  
BUDGET AND  
IMPACT 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 3, 4, and 4.02 and by adding  
6 Section 4.6 as follows:

7 (325 ILCS 5/3) (from Ch. 23, par. 2053)

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

10 "Adult resident" means any person between 18 and 22 years  
11 of age who resides in any facility licensed by the Department  
12 under the Child Care Act of 1969. For purposes of this Act, the  
13 criteria set forth in the definitions of "abused child" and  
14 "neglected child" shall be used in determining whether an adult  
15 resident is abused or neglected.

16 "Agency" means a child care facility licensed under Section  
17 2.05 or Section 2.06 of the Child Care Act of 1969 and includes  
18 a transitional living program that accepts children and adult  
19 residents for placement who are in the guardianship of the  
20 Department.

21 "Blatant disregard" means an incident where the real,  
22 significant, and imminent risk of harm would be so obvious to a  
23 reasonable parent or caretaker that it is unlikely that a

1 reasonable parent or caretaker would have exposed the child to  
2 the danger without exercising precautionary measures to  
3 protect the child from harm. With respect to a person working  
4 at an agency in his or her professional capacity with a child  
5 or adult resident, "blatant disregard" includes a failure by  
6 the person to perform job responsibilities intended to protect  
7 the child's or adult resident's health, physical well-being, or  
8 welfare, and, when viewed in light of the surrounding  
9 circumstances, evidence exists that would cause a reasonable  
10 person to believe that the child was neglected. With respect to  
11 an agency, "blatant disregard" includes a failure to implement  
12 practices that ensure the health, physical well-being, or  
13 welfare of the children and adult residents residing in the  
14 facility.

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

18 "Department" means Department of Children and Family  
19 Services.

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

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

1 child, or a paramour of the child's parent:

2 (a) inflicts, causes to be inflicted, or allows to be  
3 inflicted upon such child physical injury, by other than  
4 accidental means, which causes death, disfigurement,  
5 impairment of physical or emotional health, or loss or  
6 impairment of any bodily function;

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

12 (c) commits or allows to be committed any sex offense  
13 against such child, as such sex offenses are defined in the  
14 Criminal Code of 2012 or in the Wrongs to Children Act, and  
15 extending those definitions of sex offenses to include  
16 children under 18 years of age;

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

19 (e) inflicts excessive corporal punishment or, in the  
20 case of a person working for an agency who is prohibited  
21 from using corporal punishment, inflicts corporal  
22 punishment upon a child or adult resident with whom the  
23 person is working in his or her professional capacity;

24 (f) commits or allows to be committed the offense of  
25 female genital mutilation, as defined in Section 12-34 of  
26 the Criminal Code of 2012, against the child;

1 (g) causes to be sold, transferred, distributed, or  
2 given to such child under 18 years of age, a controlled  
3 substance as defined in Section 102 of the Illinois  
4 Controlled Substances Act in violation of Article IV of the  
5 Illinois Controlled Substances Act or in violation of the  
6 Methamphetamine Control and Community Protection Act,  
7 except for controlled substances that are prescribed in  
8 accordance with Article III of the Illinois Controlled  
9 Substances Act and are dispensed to such child in a manner  
10 that substantially complies with the prescription; or

11 (h) commits or allows to be committed the offense of  
12 involuntary servitude, involuntary sexual servitude of a  
13 minor, or trafficking in persons as defined in Section 10-9  
14 of the Criminal Code of 2012 against the child.

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

18 "Neglected child" means any child who is not receiving the  
19 proper or necessary nourishment or medically indicated  
20 treatment including food or care not provided solely on the  
21 basis of the present or anticipated mental or physical  
22 impairment as determined by a physician acting alone or in  
23 consultation with other physicians or otherwise is not  
24 receiving the proper or necessary support or medical or other  
25 remedial care recognized under State law as necessary for a  
26 child's well-being, or other care necessary for his or her

1 well-being, including adequate food, clothing and shelter; or  
2 who is subjected to an environment which is injurious insofar  
3 as (i) the child's environment creates a likelihood of harm to  
4 the child's health, physical well-being, or welfare and (ii)  
5 the likely harm to the child is the result of a blatant  
6 disregard of parent, caretaker, or agency responsibilities; or  
7 who is abandoned by his or her parents or other person  
8 responsible for the child's welfare without a proper plan of  
9 care; or who has been provided with interim crisis intervention  
10 services under Section 3-5 of the Juvenile Court Act of 1987  
11 and whose parent, guardian, or custodian refuses to permit the  
12 child to return home and no other living arrangement agreeable  
13 to the parent, guardian, or custodian can be made, and the  
14 parent, guardian, or custodian has not made any other  
15 appropriate living arrangement for the child; or who is a  
16 newborn infant whose blood, urine, or meconium contains any  
17 amount of a controlled substance as defined in subsection (f)  
18 of Section 102 of the Illinois Controlled Substances Act or a  
19 metabolite thereof, with the exception of a controlled  
20 substance or metabolite thereof whose presence in the newborn  
21 infant is the result of medical treatment administered to the  
22 mother or the newborn infant. A child shall not be considered  
23 neglected for the sole reason that the child's parent or other  
24 person responsible for his or her welfare has left the child in  
25 the care of an adult relative for any period of time. A child  
26 shall not be considered neglected for the sole reason that the

1 child has been relinquished in accordance with the Abandoned  
2 Newborn Infant Protection Act. A child shall not be considered  
3 neglected or abused for the sole reason that such child's  
4 parent or other person responsible for his or her welfare  
5 depends upon spiritual means through prayer alone for the  
6 treatment or cure of disease or remedial care as provided under  
7 Section 4 of this Act. A child shall not be considered  
8 neglected or abused solely because the child is not attending  
9 school in accordance with the requirements of Article 26 of The  
10 School Code, as amended.

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

15 "Near fatality" means an act that, as certified by a  
16 physician, places the child in serious or critical condition,  
17 including acts of great bodily harm inflicted upon children  
18 under 13 years of age, and as otherwise defined by Department  
19 rule.

20 "Great bodily harm" includes bodily injury which creates a  
21 high probability of death, or which causes serious permanent  
22 disfigurement, or which causes a permanent or protracted loss  
23 or impairment of the function of any bodily member or organ, or  
24 other serious bodily harm.

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

1 any person responsible for the child's welfare in a public or  
2 private residential agency or institution; any person  
3 responsible for the child's welfare within a public or private  
4 profit or not for profit child care facility; or any other  
5 person responsible for the child's welfare at the time of the  
6 alleged abuse or neglect, including any person that is the  
7 custodian of a child under 18 years of age who commits or  
8 allows to be committed, against the child, the offense of  
9 involuntary servitude, involuntary sexual servitude of a  
10 minor, or trafficking in persons for forced labor or services,  
11 as provided in Section 10-9 of the Criminal Code of 2012, or  
12 any person who came to know the child through an official  
13 capacity or position of trust, including but not limited to  
14 health care professionals, educational personnel, recreational  
15 supervisors, members of the clergy, and volunteers or support  
16 personnel in any setting where children may be subject to abuse  
17 or neglect.

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

25 "An unfounded report" means any report made under this Act  
26 for which it is determined after an investigation that no



1 credible evidence of abuse or neglect exists.

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

5 "An undetermined report" means any report made under this  
6 Act in which it was not possible to initiate or complete an  
7 investigation on the basis of information provided to the  
8 Department.

9 "Subject of report" means any child reported to the central  
10 register of child abuse and neglect established under Section  
11 7.7 of this Act as an alleged victim of child abuse or neglect  
12 and the parent or guardian of the alleged victim or other  
13 person responsible for the alleged victim's welfare who is  
14 named in the report or added to the report as an alleged  
15 perpetrator of child abuse or neglect.

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

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

22 "Youth athletic program worker" means an individual  
23 performing services for a youth athletic program including, but  
24 not limited to, coaches, doctors, and program employees.

25 (Source: P.A. 99-350, eff. 6-1-16; 100-733, eff. 1-1-19.)

1 (325 ILCS 5/4)

2 Sec. 4. Persons required to report; privileged  
3 communications; transmitting false report. Any youth athletic  
4 program worker, physician, resident, intern, hospital,  
5 hospital administrator and personnel engaged in examination,  
6 care and treatment of persons, surgeon, dentist, dentist  
7 hygienist, osteopath, chiropractor, podiatric physician,  
8 physician assistant, substance abuse treatment personnel,  
9 funeral home director or employee, coroner, medical examiner,  
10 emergency medical technician, acupuncturist, crisis line or  
11 hotline personnel, school personnel (including administrators  
12 and both certified and non-certified school employees),  
13 personnel of institutions of higher education, educational  
14 advocate assigned to a child pursuant to the School Code,  
15 member of a school board or the Chicago Board of Education or  
16 the governing body of a private school (but only to the extent  
17 required in accordance with other provisions of this Section  
18 expressly concerning the duty of school board members to report  
19 suspected child abuse), truant officers, social worker, social  
20 services administrator, domestic violence program personnel,  
21 registered nurse, licensed practical nurse, genetic counselor,  
22 respiratory care practitioner, advanced practice registered  
23 nurse, home health aide, director or staff assistant of a  
24 nursery school or a child day care center, recreational or  
25 athletic program or facility personnel, early intervention  
26 provider as defined in the Early Intervention Services System

1 Act, law enforcement officer, licensed professional counselor,  
2 licensed clinical professional counselor, registered  
3 psychologist and assistants working under the direct  
4 supervision of a psychologist, psychiatrist, or field  
5 personnel of the Department of Healthcare and Family Services,  
6 Juvenile Justice, Public Health, Human Services (acting as  
7 successor to the Department of Mental Health and Developmental  
8 Disabilities, Rehabilitation Services, or Public Aid),  
9 Corrections, Human Rights, or Children and Family Services,  
10 supervisor and administrator of general assistance under the  
11 Illinois Public Aid Code, probation officer, animal control  
12 officer or Illinois Department of Agriculture Bureau of Animal  
13 Health and Welfare field investigator, or any other foster  
14 parent, homemaker or child care worker having reasonable cause  
15 to believe a child known to them in their professional or  
16 official capacity may be an abused child or a neglected child  
17 shall immediately report or cause a report to be made to the  
18 Department.

19 Any member of the clergy having reasonable cause to believe  
20 that a child known to that member of the clergy in his or her  
21 professional capacity may be an abused child as defined in item  
22 (c) of the definition of "abused child" in Section 3 of this  
23 Act shall immediately report or cause a report to be made to  
24 the Department.

25 Any physician, physician's assistant, registered nurse,  
26 licensed practical nurse, medical technician, certified

1 nursing assistant, social worker, or licensed professional  
2 counselor of any office, clinic, or any other physical location  
3 that provides abortions, abortion referrals, or contraceptives  
4 having reasonable cause to believe a child known to him or her  
5 in his or her professional or official capacity may be an  
6 abused child or a neglected child shall immediately report or  
7 cause a report to be made to the Department.

8 If an allegation is raised to a school board member during  
9 the course of an open or closed school board meeting that a  
10 child who is enrolled in the school district of which he or she  
11 is a board member is an abused child as defined in Section 3 of  
12 this Act, the member shall direct or cause the school board to  
13 direct the superintendent of the school district or other  
14 equivalent school administrator to comply with the  
15 requirements of this Act concerning the reporting of child  
16 abuse. For purposes of this paragraph, a school board member is  
17 granted the authority in his or her individual capacity to  
18 direct the superintendent of the school district or other  
19 equivalent school administrator to comply with the  
20 requirements of this Act concerning the reporting of child  
21 abuse.

22 Notwithstanding any other provision of this Act, if an  
23 employee of a school district has made a report or caused a  
24 report to be made to the Department under this Act involving  
25 the conduct of a current or former employee of the school  
26 district and a request is made by another school district for

1 the provision of information concerning the job performance or  
2 qualifications of the current or former employee because he or  
3 she is an applicant for employment with the requesting school  
4 district, the general superintendent of the school district to  
5 which the request is being made must disclose to the requesting  
6 school district the fact that an employee of the school  
7 district has made a report involving the conduct of the  
8 applicant or caused a report to be made to the Department, as  
9 required under this Act. Only the fact that an employee of the  
10 school district has made a report involving the conduct of the  
11 applicant or caused a report to be made to the Department may  
12 be disclosed by the general superintendent of the school  
13 district to which the request for information concerning the  
14 applicant is made, and this fact may be disclosed only in cases  
15 where the employee and the general superintendent have not been  
16 informed by the Department that the allegations were unfounded.  
17 An employee of a school district who is or has been the subject  
18 of a report made pursuant to this Act during his or her  
19 employment with the school district must be informed by that  
20 school district that if he or she applies for employment with  
21 another school district, the general superintendent of the  
22 former school district, upon the request of the school district  
23 to which the employee applies, shall notify that requesting  
24 school district that the employee is or was the subject of such  
25 a report.

26 Whenever such person is required to report under this Act

1 in his capacity as a member of the staff of a medical or other  
2 public or private institution, school, facility or agency, or  
3 as a member of the clergy, he shall make report immediately to  
4 the Department in accordance with the provisions of this Act  
5 and may also notify the person in charge of such institution,  
6 school, facility or agency, or church, synagogue, temple,  
7 mosque, or other religious institution, or his designated agent  
8 that such report has been made. Under no circumstances shall  
9 any person in charge of such institution, school, facility or  
10 agency, or church, synagogue, temple, mosque, or other  
11 religious institution, or his designated agent to whom such  
12 notification has been made, exercise any control, restraint,  
13 modification or other change in the report or the forwarding of  
14 such report to the Department.

15 The privileged quality of communication between any  
16 professional person required to report and his patient or  
17 client shall not apply to situations involving abused or  
18 neglected children and shall not constitute grounds for failure  
19 to report as required by this Act or constitute grounds for  
20 failure to share information or documents with the Department  
21 during the course of a child abuse or neglect investigation. If  
22 requested by the professional, the Department shall confirm in  
23 writing that the information or documents disclosed by the  
24 professional were gathered in the course of a child abuse or  
25 neglect investigation.

26 The reporting requirements of this Act shall not apply to

1 the contents of a privileged communication between an attorney  
2 and his or her client or to confidential information within the  
3 meaning of Rule 1.6 of the Illinois Rules of Professional  
4 Conduct relating to the legal representation of an individual  
5 client.

6 A member of the clergy may claim the privilege under  
7 Section 8-803 of the Code of Civil Procedure.

8 Any office, clinic, or any other physical location that  
9 provides abortions, abortion referrals, or contraceptives  
10 shall provide to all office personnel copies of written  
11 information and training materials about abuse and neglect and  
12 the requirements of this Act that are provided to employees of  
13 the office, clinic, or physical location who are required to  
14 make reports to the Department under this Act, and instruct  
15 such office personnel to bring to the attention of an employee  
16 of the office, clinic, or physical location who is required to  
17 make reports to the Department under this Act any reasonable  
18 suspicion that a child known to him or her in his or her  
19 professional or official capacity may be an abused child or a  
20 neglected child. In addition to the above persons required to  
21 report suspected cases of abused or neglected children, any  
22 other person may make a report if such person has reasonable  
23 cause to believe a child may be an abused child or a neglected  
24 child.

25 Any person who enters into employment on and after July 1,  
26 1986 and is mandated by virtue of that employment to report

1 under this Act, shall sign a statement on a form prescribed by  
2 the Department, to the effect that the employee has knowledge  
3 and understanding of the reporting requirements of this Act. On  
4 and after January 1, 2019, the statement shall also include  
5 information about available mandated reporter training  
6 provided by the Department. The statement shall be signed prior  
7 to commencement of the employment. The signed statement shall  
8 be retained by the employer. The cost of printing,  
9 distribution, and filing of the statement shall be borne by the  
10 employer.

11 Within one year of initial employment and at least every 5  
12 years thereafter, school personnel and recreational or  
13 athletic program or facility personnel required to report child  
14 abuse as provided under this Section must complete mandated  
15 reporter training by a provider or agency with expertise in  
16 recognizing and reporting child abuse.

17 The Department shall provide copies of this Act, upon  
18 request, to all employers employing persons who shall be  
19 required under the provisions of this Section to report under  
20 this Act.

21 Any person who knowingly transmits a false report to the  
22 Department commits the offense of disorderly conduct under  
23 subsection (a) (7) of Section 26-1 of the Criminal Code of 2012.  
24 A violation of this provision is a Class 4 felony.

25 Any person who knowingly and willfully violates any  
26 provision of this Section other than a second or subsequent



1 violation of transmitting a false report as described in the  
2 preceding paragraph, is guilty of ~~a Class A misdemeanor for a~~  
3 ~~first violation and a Class 4 felony for a second or subsequent~~  
4 ~~violation~~; except that if the person acted as part of a plan or  
5 scheme having as its object the prevention of discovery of an  
6 abused or neglected child by lawful authorities for the purpose  
7 of protecting or insulating any person or entity from arrest or  
8 prosecution, the person is guilty of ~~a Class 4 felony for a~~  
9 ~~first offense and a Class 3 felony for a second or subsequent~~  
10 ~~offense (regardless of whether the second or subsequent offense~~  
11 ~~involves any of the same facts or persons as the first or other~~  
12 ~~prior offense).~~

13 A child whose parent, guardian or custodian in good faith  
14 selects and depends upon spiritual means through prayer alone  
15 for the treatment or cure of disease or remedial care may be  
16 considered neglected or abused, but not for the sole reason  
17 that his parent, guardian or custodian accepts and practices  
18 such beliefs.

19 A child shall not be considered neglected or abused solely  
20 because the child is not attending school in accordance with  
21 the requirements of Article 26 of the School Code, as amended.

22 Nothing in this Act prohibits a mandated reporter who  
23 reasonably believes that an animal is being abused or neglected  
24 in violation of the Humane Care for Animals Act from reporting  
25 animal abuse or neglect to the Department of Agriculture's  
26 Bureau of Animal Health and Welfare.

1           A home rule unit may not regulate the reporting of child  
2 abuse or neglect in a manner inconsistent with the provisions  
3 of this Section. This Section is a limitation under subsection  
4 (i) of Section 6 of Article VII of the Illinois Constitution on  
5 the concurrent exercise by home rule units of powers and  
6 functions exercised by the State.

7           For purposes of this Section "child abuse or neglect"  
8 includes abuse or neglect of an adult resident as defined in  
9 this Act.

10       (Source: P.A. 100-513, eff. 1-1-18; 100-1071, eff. 1-1-19.)

11           (325 ILCS 5/4.02) (from Ch. 23, par. 2054.02)

12           Sec. 4.02. Any physician who willfully fails to report  
13 suspected child abuse or neglect as required by this Act shall  
14 be referred to the Illinois State Medical Disciplinary Board  
15 for action in accordance with paragraph 22 of Section 22 of the  
16 Medical Practice Act of 1987. Any dentist or dental hygienist  
17 who willfully fails to report suspected child abuse or neglect  
18 as required by this Act shall be referred to the Department of  
19 Professional Regulation for action in accordance with  
20 paragraph 19 of Section 23 of the Illinois Dental Practice Act.  
21 Any other person required by this Act to report suspected child  
22 abuse and neglect who willfully fails to report such is guilty  
23 of ~~a Class A misdemeanor for a first violation and a Class 4~~  
24 ~~felony for a second or subsequent violation.~~

25       (Source: P.A. 91-197, eff. 1-1-00; 92-801, eff. 8-16-02.)

1 (325 ILCS 5/4.6 new)

2 Sec. 4.6. Youth athletic program workers. A youth athletic  
3 program must have a background check performed for each youth  
4 athletic program worker by a reputable, licensed third-party  
5 vendor. The background check shall include:

6 (1) Social Security Number to confirm the identity of  
7 the individual;

8 (2) driving records if the individual is driving as  
9 part of his or her duties with the program;

10 (3) a multijurisdictional State and county criminal  
11 records database search; and

12 (4) a federal criminal search.

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