



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4769

Introduced 2/18/2020, by Rep. Deanne M. Mazzochi

SYNOPSIS AS INTRODUCED:

325 ILCS 5/3

from Ch. 23, par. 2053

410 ILCS 50/3.5 new

Amends the Abused and Neglected Child Reporting Act. Provides that a child shall not be considered neglected solely because the child's parent or other person responsible for his or her welfare: (i) objects to a recommended vaccination schedule; (ii) objects to the administration of opioid medication or ophthalmic antibiotics in newborns; (iii) objects to the administration, in non-emergency situations, of a medication without review of an FDA-approved package insert or instructions for use; (iv) objects to separation of the child and parent or other person responsible for his or her welfare by the medical professional during non-emergency medical consultations; (v) requests minimally invasive diagnostic tests for the child; or (vi) seeks diagnosis of or treatment of symptoms associated with Pediatric Acute-onset Neuropsychiatric Syndrome or Pediatric Autoimmune Neuropsychiatric Disorder Associated with Streptococcal Infections. Provides that if a medical professional complies with an objection or request set forth in the amendatory Act by a child's parent or other person responsible for the child's welfare, no liability for any such decision may attach to the medical professional. Amends the Medical Patient Rights Act. Provides that a child's parent or other person responsible for the child's welfare has a right to be free from threats by medical professionals to refer a child to protective services, unless the medical professional has a good faith basis to believe that the child otherwise meets the definition of an abused child or a neglected child as defined under the Abused and Neglected Child Reporting Act. Requires the Department of Public Health to adopt rules.

LRB101 17640 KTG 67067 b

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 3 as follows:

6 (325 ILCS 5/3) (from Ch. 23, par. 2053)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (g) causes to be sold, transferred, distributed, or

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

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

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

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

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

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

10 A child shall not be considered neglected solely because
11 the child's parent or other person responsible for his or her
12 welfare:

13 (a) objects to:

14 (i) a recommended vaccination schedule, including,
15 but not limited to, administering to the child: (1)
16 silver nitrate; (2) vitamin K; (3) the HPV vaccine; or
17 (4) a flu vaccine; or

18 (ii) the dosing schedule for vaccines, including,
19 but not limited to, objecting to administering
20 multiple vaccines in a single day;

21 (b) objects to the administration of opioid medication
22 or ophthalmic antibiotics in newborns;

23 (c) objects to the administration, in non-emergency
24 situations, of a medication without review of an
25 FDA-approved package insert or instructions for use;

26 (d) objects to separation of the child and parent or

1 other person responsible for his or her welfare by the
2 medical professional during non-emergency medical
3 consultations;

4 (e) requests minimally invasive diagnostic tests for
5 the child; or

6 (f) seeks diagnosis of or treatment of symptoms
7 associated with Pediatric Acute-onset Neuropsychiatric
8 Syndrome or Pediatric Autoimmune Neuropsychiatric Disorder
9 Associated with Streptococcal Infections.

10 If a medical professional complies with an objection or
11 request set forth in subsections (a) through (f) by a child's
12 parent or other person responsible for the child's welfare, no
13 liability for any such decision may attach to the medical
14 professional.

15 "Child Protective Service Unit" means certain specialized
16 State employees of the Department assigned by the Director to
17 perform the duties and responsibilities as provided under
18 Section 7.2 of this Act.

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

24 "Great bodily harm" includes bodily injury which creates a
25 high probability of death, or which causes serious permanent
26 disfigurement, or which causes a permanent or protracted loss

1 or impairment of the function of any bodily member or organ, or
2 other serious bodily harm.

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

22 "Temporary protective custody" means custody within a
23 hospital or other medical facility or a place previously
24 designated for such custody by the Department, subject to
25 review by the Court, including a licensed foster home, group
26 home, or other institution; but such place shall not be a jail

1 or other place for the detention of criminal or juvenile
2 offenders.

3 "An unfounded report" means any report made under this Act
4 for which it is determined after an investigation that no
5 credible evidence of abuse or neglect exists.

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

9 "An undetermined report" means any report made under this
10 Act in which it was not possible to initiate or complete an
11 investigation on the basis of information provided to the
12 Department.

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

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

23 "Member of the clergy" means a clergyman or practitioner of
24 any religious denomination accredited by the religious body to
25 which he or she belongs.

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

1 Section 10. The Medical Patient Rights Act is amended by
2 adding Section 3.5 as follows:

3 (410 ILCS 50/3.5 new)

4 Sec. 3.5. Parental rights.

5 (a) In addition to any other right provided under this Act,
6 a child's parent or other person responsible for the child's
7 welfare has a right to be free from threats by medical
8 professionals to refer a child to protective services, unless
9 the medical professional has a good faith basis to believe that
10 the child otherwise meets the definition of an abused child or
11 a neglected child as defined in Section 3 of the Abused and
12 Neglected Child Reporting Act.

13 (b) The Department of Public Health shall adopt rules to
14 implement this Section.