

SB3312



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3312

Introduced 2/14/2020, by Sen. Chapin Rose

SYNOPSIS AS INTRODUCED:

325 ILCS 5/4

Amends the Abused and Neglected Child Reporting Act. Provides that if an allegation is raised to a school board member that a child who is enrolled in the school district of which he or she is a board member is an abused child, the member shall direct or cause the school board to direct the principal of the school attended by the child to comply with the requirements of the Act concerning the reporting of child abuse. Effective immediately.

LRB101 19973 KTG 69498 b

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 Section 4 as follows:

6 (325 ILCS 5/4)

7 Sec. 4. Persons required to report; privileged
8 communications; transmitting false report.

9 (a) The following persons are required to immediately
10 report to the Department when they have reasonable cause to
11 believe that a child known to them in their professional or
12 official capacities may be an abused child or a neglected
13 child:

14 (1) Medical personnel, including any: physician
15 licensed to practice medicine in any of its branches
16 (medical doctor or doctor of osteopathy); resident;
17 intern; medical administrator or personnel engaged in the
18 examination, care, and treatment of persons; psychiatrist;
19 surgeon; dentist; dental hygienist; chiropractic
20 physician; podiatric physician; physician assistant;
21 emergency medical technician; acupuncturist; registered
22 nurse; licensed practical nurse; advanced practice
23 registered nurse; genetic counselor; respiratory care

1 practitioner; home health aide; or certified nursing
2 assistant.

3 (2) Social services and mental health personnel,
4 including any: licensed professional counselor; licensed
5 clinical professional counselor; licensed social worker;
6 licensed clinical social worker; licensed psychologist or
7 assistant working under the direct supervision of a
8 psychologist; associate licensed marriage and family
9 therapist; licensed marriage and family therapist; field
10 personnel of the Departments of Healthcare and Family
11 Services, Public Health, Human Services, Human Rights, or
12 Children and Family Services; supervisor or administrator
13 of the General Assistance program established under
14 Article VI of the Illinois Public Aid Code; social services
15 administrator; or substance abuse treatment personnel.

16 (3) Crisis intervention personnel, including any:
17 crisis line or hotline personnel; or domestic violence
18 program personnel.

19 (4) Education personnel, including any: school
20 personnel (including administrators and certified and
21 non-certified school employees); personnel of institutions
22 of higher education; educational advocate assigned to a
23 child in accordance with the School Code; member of a
24 school board or the Chicago Board of Education or the
25 governing body of a private school (but only to the extent
26 required under subsection (d)); or truant officer.

1 (5) Recreation or athletic program or facility
2 personnel.

3 (6) Child care personnel, including any: early
4 intervention provider as defined in the Early Intervention
5 Services System Act; director or staff assistant of a
6 nursery school or a child day care center; or foster
7 parent, homemaker, or child care worker.

8 (7) Law enforcement personnel, including any: law
9 enforcement officer; field personnel of the Department of
10 Juvenile Justice; field personnel of the Department of
11 Corrections; probation officer; or animal control officer
12 or field investigator of the Department of Agriculture's
13 Bureau of Animal Health and Welfare.

14 (8) Any funeral home director; funeral home director
15 and embalmer; funeral home employee; coroner; or medical
16 examiner.

17 (9) Any member of the clergy.

18 (10) Any physician, physician assistant, registered
19 nurse, licensed practical nurse, medical technician,
20 certified nursing assistant, licensed social worker,
21 licensed clinical social worker, or licensed professional
22 counselor of any office, clinic, or any other physical
23 location that provides abortions, abortion referrals, or
24 contraceptives.

25 (b) When 2 or more persons who work within the same
26 workplace and are required to report under this Act share a

1 reasonable cause to believe that a child may be an abused or
2 neglected child, one of those reporters may be designated to
3 make a single report. The report shall include the names and
4 contact information for the other mandated reporters sharing
5 the reasonable cause to believe that a child may be an abused
6 or neglected child. The designated reporter must provide
7 written confirmation of the report to those mandated reporters
8 within 48 hours. If confirmation is not provided, those
9 mandated reporters are individually responsible for
10 immediately ensuring a report is made. Nothing in this Section
11 precludes or may be used to preclude any person from reporting
12 child abuse or child neglect.

13 (c) (1) As used in this Section, "a child known to them in
14 their professional or official capacities" means:

15 (A) the mandated reporter comes into contact with the
16 child in the course of the reporter's employment or
17 practice of a profession, or through a regularly scheduled
18 program, activity, or service;

19 (B) the mandated reporter is affiliated with an agency,
20 institution, organization, school, school district,
21 regularly established church or religious organization, or
22 other entity that is directly responsible for the care,
23 supervision, guidance, or training of the child; or

24 (C) a person makes a specific disclosure to the
25 mandated reporter that an identifiable child is the victim
26 of child abuse or child neglect, and the disclosure happens

1 while the mandated reporter is engaged in his or her
2 employment or practice of a profession, or in a regularly
3 scheduled program, activity, or service.

4 (2) Nothing in this Section requires a child to come before
5 the mandated reporter in order for the reporter to make a
6 report of suspected child abuse or child neglect.

7 (d) If an allegation is raised to a school board member
8 ~~during the course of an open or closed school board meeting~~
9 that a child who is enrolled in the school district of which he
10 or she is a board member is an abused child as defined in
11 Section 3 of this Act, the member shall direct or cause the
12 school board to direct the superintendent of the school
13 district, or other equivalent school administrator, or the
14 principal of the school attended by the child to comply with
15 the 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 (e) Whenever such person is required to report under this

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

15 (f) In addition to the persons required to report suspected
16 cases of child abuse or child neglect under this Section, any
17 other person may make a report if such person has reasonable
18 cause to believe a child may be an abused child or a neglected
19 child.

20 (g) The privileged quality of communication between any
21 professional person required to report and his patient or
22 client shall not apply to situations involving abused or
23 neglected children and shall not constitute grounds for failure
24 to report as required by this Act or constitute grounds for
25 failure to share information or documents with the Department
26 during the course of a child abuse or neglect investigation. If

1 requested by the professional, the Department shall confirm in
2 writing that the information or documents disclosed by the
3 professional were gathered in the course of a child abuse or
4 neglect investigation.

5 The reporting requirements of this Act shall not apply to
6 the contents of a privileged communication between an attorney
7 and his or her client or to confidential information within the
8 meaning of Rule 1.6 of the Illinois Rules of Professional
9 Conduct relating to the legal representation of an individual
10 client.

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

13 (h) Any office, clinic, or any other physical location that
14 provides abortions, abortion referrals, or contraceptives
15 shall provide to all office personnel copies of written
16 information and training materials about abuse and neglect and
17 the requirements of this Act that are provided to employees of
18 the office, clinic, or physical location who are required to
19 make reports to the Department under this Act, and instruct
20 such office personnel to bring to the attention of an employee
21 of the office, clinic, or physical location who is required to
22 make reports to the Department under this Act any reasonable
23 suspicion that a child known to him or her in his or her
24 professional or official capacity may be an abused child or a
25 neglected child.

26 (i) Any person who enters into employment on and after July

1 1, 1986 and is mandated by virtue of that employment to report
2 under this Act, shall sign a statement on a form prescribed by
3 the Department, to the effect that the employee has knowledge
4 and understanding of the reporting requirements of this Act. On
5 and after January 1, 2019, the statement shall also include
6 information about available mandated reporter training
7 provided by the Department. The statement shall be signed prior
8 to commencement of the employment. The signed statement shall
9 be retained by the employer. The cost of printing,
10 distribution, and filing of the statement shall be borne by the
11 employer.

12 (j) Persons required to report child abuse or child neglect
13 as provided under this Section must complete an initial
14 mandated reporter training within 3 months of their date of
15 engagement in a professional or official capacity as a mandated
16 reporter, or within the time frame of any other applicable
17 State law that governs training requirements for a specific
18 profession, and at least every 3 years thereafter. The initial
19 requirement only applies to the first time they engage in their
20 professional or official capacity. In lieu of training every 3
21 years, medical personnel, as listed in paragraph (1) of
22 subsection (a), must meet the requirements described in
23 subsection (k).

24 The trainings shall be in-person or web-based, and shall
25 include, at a minimum, information on the following topics: (i)
26 indicators for recognizing child abuse and child neglect, as

1 defined under this Act; (ii) the process for reporting
2 suspected child abuse and child neglect in Illinois as required
3 by this Act and the required documentation; (iii) responding to
4 a child in a trauma-informed manner; and (iv) understanding the
5 response of child protective services and the role of the
6 reporter after a call has been made. Child-serving
7 organizations are encouraged to provide in-person annual
8 trainings.

9 The mandated reporter training shall be provided through
10 the Department, through an entity authorized to provide
11 continuing education for professionals licensed through the
12 Department of Financial and Professional Regulation, the State
13 Board of Education, the Illinois Law Enforcement Training
14 Standards Board, or the Department of State Police, or through
15 an organization approved by the Department to provide mandated
16 reporter training. The Department must make available a free
17 web-based training for reporters.

18 Each mandated reporter shall report to his or her employer
19 and, when applicable, to his or her licensing or certification
20 board that he or she received the mandated reporter training.
21 The mandated reporter shall maintain records of completion.

22 Beginning January 1, 2021, if a mandated reporter receives
23 licensure from the Department of Financial and Professional
24 Regulation or the State Board of Education, and his or her
25 profession has continuing education requirements, the training
26 mandated under this Section shall count toward meeting the

1 licensee's required continuing education hours.

2 (k)(1) Medical personnel, as listed in paragraph (1) of
3 subsection (a), who work with children in their professional or
4 official capacity, must complete mandated reporter training at
5 least every 6 years. Such medical personnel, if licensed, must
6 attest at each time of licensure renewal on their renewal form
7 that they understand they are a mandated reporter of child
8 abuse and neglect, that they are aware of the process for
9 making a report, that they know how to respond to a child in a
10 trauma-informed manner, and that they are aware of the role of
11 child protective services and the role of a reporter after a
12 call has been made.

13 (2) In lieu of repeated training, medical personnel, as
14 listed in paragraph (1) of subsection (a), who do not work with
15 children in their professional or official capacity, may
16 instead attest each time at licensure renewal on their renewal
17 form that they understand they are a mandated reporter of child
18 abuse and neglect, that they are aware of the process for
19 making a report, that they know how to respond to a child in a
20 trauma-informed manner, and that they are aware of the role of
21 child protective services and the role of a reporter after a
22 call has been made. Nothing in this paragraph precludes medical
23 personnel from completing mandated reporter training and
24 receiving continuing education credits for that training.

25 (1) The Department shall provide copies of this Act, upon
26 request, to all employers employing persons who shall be

1 required under the provisions of this Section to report under
2 this Act.

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

7 Any person who knowingly and willfully violates any
8 provision of this Section other than a second or subsequent
9 violation of transmitting a false report as described in the
10 preceding paragraph, is guilty of a Class A misdemeanor for a
11 first violation and a Class 4 felony for a second or subsequent
12 violation; except that if the person acted as part of a plan or
13 scheme having as its object the prevention of discovery of an
14 abused or neglected child by lawful authorities for the purpose
15 of protecting or insulating any person or entity from arrest or
16 prosecution, the person is guilty of a Class 4 felony for a
17 first offense and a Class 3 felony for a second or subsequent
18 offense (regardless of whether the second or subsequent offense
19 involves any of the same facts or persons as the first or other
20 prior offense).

21 (n) A child whose parent, guardian or custodian in good
22 faith selects and depends upon spiritual means through prayer
23 alone for the treatment or cure of disease or remedial care may
24 be considered neglected or abused, but not for the sole reason
25 that his parent, guardian or custodian accepts and practices
26 such beliefs.

1 (o) A child shall not be considered neglected or abused
2 solely because the child is not attending school in accordance
3 with the requirements of Article 26 of the School Code, as
4 amended.

5 (p) Nothing in this Act prohibits a mandated reporter who
6 reasonably believes that an animal is being abused or neglected
7 in violation of the Humane Care for Animals Act from reporting
8 animal abuse or neglect to the Department of Agriculture's
9 Bureau of Animal Health and Welfare.

10 (q) A home rule unit may not regulate the reporting of
11 child abuse or neglect in a manner inconsistent with the
12 provisions of this Section. This Section is a limitation under
13 subsection (i) of Section 6 of Article VII of the Illinois
14 Constitution on the concurrent exercise by home rule units of
15 powers and functions exercised by the State.

16 (r) For purposes of this Section "child abuse or neglect"
17 includes abuse or neglect of an adult resident as defined in
18 this Act.

19 (Source: P.A. 100-513, eff. 1-1-18; 100-1071, eff. 1-1-19;
20 101-564, eff. 1-1-20.)

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