



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB1910

Introduced 2/17/2021, 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 has a difference of opinion with a medical professional regarding the safety, efficacy, or advisability of various treatment protocols specific to that child. Provides that a child shall not be considered neglected solely because a child's parent or other person responsible for the child's welfare objects to: (i) a recommended vaccination schedule or the dosing schedule for vaccines; (ii) the administration of ophthalmic antibiotics or silver nitrate in newborns; (iii) the administration of, timing of, or route of administration for vitamin K in newborns; or other specified medical care. Provides that requests for minimally invasive diagnostic tests for the child and a diagnosis of or treatment of pediatric acute onset neuropsychiatric syndrome or pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections shall not be considered an indication of neglect. 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.

LRB102 14206 KTG 19558 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
14 adult resident is abused or neglected.

15 "Agency" means a child care facility licensed under
16 Section 2.05 or Section 2.06 of the Child Care Act of 1969 and
17 includes a transitional living program that accepts children
18 and adult residents for placement who are in the guardianship
19 of the 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,
7 or 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
10 to an agency, "blatant disregard" includes a failure to
11 implement practices that ensure the health, physical
12 well-being, or welfare of the children and adult residents
13 residing in the 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
13 the Criminal Code of 2012 or in the Wrongs to Children Act,
14 and 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
4 the Illinois Controlled Substances Act or in violation of
5 the 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
13 10-9 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
9 intervention services under Section 3-5 of the Juvenile Court
10 Act of 1987 and whose parent, guardian, or custodian refuses
11 to permit the child to return home and no other living
12 arrangement agreeable to the parent, guardian, or custodian
13 can be made, and the parent, guardian, or custodian has not
14 made any other appropriate living arrangement for the child;
15 or who is a newborn infant whose blood, urine, or meconium
16 contains any amount of a controlled substance as defined in
17 subsection (f) of Section 102 of the Illinois Controlled
18 Substances Act or a metabolite thereof, with the exception of
19 a controlled substance or metabolite thereof whose presence in
20 the newborn infant is the result of medical treatment
21 administered to the mother or the newborn infant. A child
22 shall not be considered neglected for the sole reason that the
23 child's parent or other person responsible for his or her
24 welfare has left the child in the care of an adult relative for
25 any period of time. A child shall not be considered neglected
26 for the sole reason that the child has been relinquished in

1 accordance with the Abandoned Newborn Infant Protection Act. A
2 child shall not be considered neglected or abused for the sole
3 reason that such child's parent or other person responsible
4 for his or her welfare depends upon spiritual means through
5 prayer alone for the treatment or cure of disease or remedial
6 care as provided under Section 4 of this Act. A child shall not
7 be considered neglected or abused solely because the child is
8 not attending school in accordance with the requirements of
9 Article 26 of The 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 has a difference of opinion with a medical
13 professional regarding the safety, efficacy, or advisability
14 of various treatment protocols specific to that child. A child
15 shall not be considered neglected solely because a child's
16 parent or other person responsible for the child's welfare:

17 (a) objects to:

18 (i) a recommended vaccination schedule, including,
19 but not limited to, administering to the child: (1)
20 the HPV vaccine; or (2) an influenza vaccine; or (3) a
21 vaccine for COVID-19; or

22 (ii) the dosing schedule for vaccines, including,
23 but not limited to, objecting to administering
24 multiple vaccines in a single day;

25 (b) objects to the administration of opioid
26 medications for pain relief if other non-opioid

1 medications are available;

2 (c) objects to the administration of ophthalmic
3 antibiotics or silver nitrate in newborns, and the medical
4 professional does not have a basis to believe the mother
5 has been infected with gonorrhea or chlamydia;

6 (d) objects to the administration of, timing of, or
7 route of administration for vitamin K in newborns;

8 (e) objects to the administration, in non-emergency
9 situations, of a medication without review of an
10 FDA-approved package insert or instructions for use;

11 (f) objects to separation of the child and parent or
12 other person responsible for his or her welfare by the
13 medical professional during non-emergency medical
14 consultations;

15 (g) requests minimally invasive diagnostic tests for
16 the child; or

17 (h) seeks diagnosis of or treatment of symptoms
18 associated with pediatric acute onset neuropsychiatric
19 syndrome or pediatric autoimmune neuropsychiatric
20 disorders associated with streptococcal infections.

21 If a medical professional complies with an objection or
22 request set forth in items (a) through (h) by a child's parent
23 or other person responsible for the child's welfare, no
24 liability for any such decision may attach to the medical
25 professional.

26 "Child Protective Service Unit" means certain specialized

1 State employees of the Department assigned by the Director to
2 perform the duties and responsibilities as provided under
3 Section 7.2 of this Act.

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

9 "Great bodily harm" includes bodily injury which creates a
10 high probability of death, or which causes serious permanent
11 disfigurement, or which causes a permanent or protracted loss
12 or impairment of the function of any bodily member or organ, or
13 other serious bodily harm.

14 "Person responsible for the child's welfare" means the
15 child's parent; guardian; foster parent; relative caregiver;
16 any person responsible for the child's welfare in a public or
17 private residential agency or institution; any person
18 responsible for the child's welfare within a public or private
19 profit or not for profit child care facility; or any other
20 person responsible for the child's welfare at the time of the
21 alleged abuse or neglect, including any person that is the
22 custodian of a child under 18 years of age who commits or
23 allows to be committed, against the child, the offense of
24 involuntary servitude, involuntary sexual servitude of a
25 minor, or trafficking in persons for forced labor or services,
26 as provided in Section 10-9 of the Criminal Code of 2012, or

1 any person who came to know the child through an official
2 capacity or position of trust, including but not limited to
3 health care professionals, educational personnel, recreational
4 supervisors, members of the clergy, and volunteers or support
5 personnel in any setting where children may be subject to
6 abuse or neglect.

7 "Temporary protective custody" means custody within a
8 hospital or other medical facility or a place previously
9 designated for such custody by the Department, subject to
10 review by the Court, including a licensed foster home, group
11 home, or other institution; but such place shall not be a jail
12 or other place for the detention of criminal or juvenile
13 offenders.

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

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

20 "An undetermined report" means any report made under this
21 Act in which it was not possible to initiate or complete an
22 investigation on the basis of information provided to the
23 Department.

24 "Subject of report" means any child reported to the
25 central register of child abuse and neglect established under
26 Section 7.7 of this Act as an alleged victim of child abuse or

1 neglect and the parent or guardian of the alleged victim or
2 other person responsible for the alleged victim's welfare who
3 is named in the report or added to the report as an alleged
4 perpetrator of child abuse or neglect.

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

8 "Member of the clergy" means a clergyman or practitioner
9 of any religious denomination accredited by the religious body
10 to which he or she belongs.

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

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

14 (410 ILCS 50/3.5 new)

15 Sec. 3.5. Parental rights.

16 (a) In addition to any other right provided under this
17 Act, a child's parent or other person responsible for the
18 child's welfare has a right to be free from threats by medical
19 professionals to refer a child to protective services, unless
20 the medical professional has a good faith basis to believe
21 that the child otherwise meets the definition of an abused
22 child or a neglected child as defined in Section 3 of the
23 Abused and Neglected Child Reporting Act.

24 (b) The Department of Public Health shall adopt rules to

1 implement this Section.