



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

**HB4806**

Introduced 1/27/2022, by Rep. Deanne M. Mazzochi

#### SYNOPSIS AS INTRODUCED:

325 ILCS 5/3

from Ch. 23, par. 2053

Amends the Abused and Neglected Child Reporting Act. In the definition of "neglected child", provides that refusal by a child's parent or other person responsible for the child's welfare to get the child vaccinated against COVID-19 shall not be considered to be medical neglect. Provides that the Department of Children and Family Services is prohibited from removing a child from his or her parent or any other person responsible for the child's welfare on the basis of neglect because of the parent's or other responsible adult's refusal to get the child vaccinated against COVID-19 or make the child wear a face mask due to the COVID-19 public health emergency.

LRB102 22948 KTG 32102 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;

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; or

14 (i) commits the offense of grooming, as defined in  
15 Section 11-25 of the Criminal Code of 2012, against the  
16 child.

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

20 "Neglected child" means any child who is not receiving the  
21 proper or necessary nourishment or medically indicated  
22 treatment including food or care not provided solely on the  
23 basis of the present or anticipated mental or physical  
24 impairment as determined by a physician acting alone or in  
25 consultation with other physicians or otherwise is not  
26 receiving the proper or necessary support or medical or other

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

1 responsible for his or her welfare has left the child in the  
2 care of an adult relative for any period of time. A child shall  
3 not be considered neglected for the sole reason that the child  
4 has been relinquished in accordance with the Abandoned Newborn  
5 Infant Protection Act. A child shall not be considered  
6 neglected or abused for the sole reason that such child's  
7 parent or other person responsible for his or her welfare  
8 depends upon spiritual means through prayer alone for the  
9 treatment or cure of disease or remedial care as provided  
10 under Section 4 of this Act. A child shall not be considered  
11 neglected or abused solely because the child is not attending  
12 school in accordance with the requirements of Article 26 of  
13 The School Code, as amended. Refusal by a child's parent or  
14 other person responsible for the child's welfare to get the  
15 child vaccinated against COVID-19 shall not be considered to  
16 be medical neglect. The Department is prohibited from removing  
17 a child from his or her parent or any other person responsible  
18 for the child's welfare on the basis of neglect because of the  
19 parent's or other responsible adult's refusal to get the child  
20 vaccinated against COVID-19 or make the child wear a face mask  
21 due to the COVID-19 public health emergency.

22 "Child Protective Service Unit" means certain specialized  
23 State employees of the Department assigned by the Director to  
24 perform the duties and responsibilities as provided under  
25 Section 7.2 of this Act.

26 "Near fatality" means an act that, as certified by a

1 physician, places the child in serious or critical condition,  
2 including acts of great bodily harm inflicted upon children  
3 under 13 years of age, and as otherwise defined by Department  
4 rule.

5 "Great bodily harm" includes bodily injury which creates a  
6 high probability of death, or which causes serious permanent  
7 disfigurement, or which causes a permanent or protracted loss  
8 or impairment of the function of any bodily member or organ, or  
9 other serious bodily harm.

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



1 personnel in any setting where children may be subject to  
2 abuse or neglect.

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

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

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

16 "An undetermined report" means any report made under this  
17 Act in which it was not possible to initiate or complete an  
18 investigation on the basis of information provided to the  
19 Department.

20 "Subject of report" means any child reported to the  
21 central register of child abuse and neglect established under  
22 Section 7.7 of this Act as an alleged victim of child abuse or  
23 neglect and the parent or guardian of the alleged victim or  
24 other person responsible for the alleged victim's welfare who  
25 is named in the report or added to the report as an alleged  
26 perpetrator of child abuse or neglect.

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

4 "Member of the clergy" means a clergyman or practitioner  
5 of any religious denomination accredited by the religious body  
6 to which he or she belongs.

7 (Source: P.A. 102-567, eff. 1-1-22; 102-676, eff. 12-3-21;  
8 revised 1-15-22.)