



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5835

Introduced 11/16/2022, by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

325 ILCS 5/3	from Ch. 23, par. 2053
325 ILCS 5/4.4 rep.	
705 ILCS 405/2-3	from Ch. 37, par. 802-3

Amends the Abused and Neglected Child Reporting Act. Removes from the definition of "neglected child" a newborn infant whose blood, urine, or meconium contains any amount of a controlled substance. Removes a provision requiring the Department of Children and Family Services to report to the State's Attorney whenever the Department receives a report that a newborn infant's blood contains a controlled substance. Amends the Juvenile Court Act of 1987. Removes a provision permitting a court to base a neglect finding on the presence of a controlled substance in the blood, urine, or meconium of a newborn infant. Effective immediately.

LRB102 29494 KTG 41504 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 State
22 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.

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

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

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

1 other serious bodily harm.

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

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

1 offenders.

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

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

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

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

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

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

25 (Source: P.A. 102-567, eff. 1-1-22; 102-676, eff. 12-3-21;
26 102-813, eff. 5-13-22.)

1 (325 ILCS 5/4.4 rep.)

2 Section 10. The Abused and Neglected Child Reporting Act
3 is amended by repealing Section 4.4.

4 Section 15. The Juvenile Court Act of 1987 is amended by
5 changing Section 2-3 as follows:

6 (705 ILCS 405/2-3) (from Ch. 37, par. 802-3)

7 Sec. 2-3. Neglected or abused minor.

8 (1) Those who are neglected include:

9 (a) any minor under 18 years of age or a minor 18 years
10 of age or older for whom the court has made a finding of
11 probable cause to believe that the minor is abused,
12 neglected, or dependent under subsection (1) of Section
13 2-10 prior to the minor's 18th birthday who is not
14 receiving the proper or necessary support, education as
15 required by law, or medical or other remedial care
16 recognized under State law as necessary for a minor's
17 well-being, or other care necessary for his or her
18 well-being, including adequate food, clothing and shelter,
19 or who is abandoned by his or her parent or parents or
20 other person or persons responsible for the minor's
21 welfare, except that a minor shall not be considered
22 neglected for the sole reason that the minor's parent or
23 parents or other person or persons responsible for the

1 minor's welfare have left the minor in the care of an adult
2 relative for any period of time, who the parent or parents
3 or other person responsible for the minor's welfare know
4 is both a mentally capable adult relative and physically
5 capable adult relative, as defined by this Act; or

6 (b) any minor under 18 years of age or a minor 18 years
7 of age or older for whom the court has made a finding of
8 probable cause to believe that the minor is abused,
9 neglected, or dependent under subsection (1) of Section
10 2-10 prior to the minor's 18th birthday whose environment
11 is injurious to his or her welfare; or

12 (c) (blank) ~~any newborn infant whose blood, urine, or~~
13 ~~meconium contains any amount of a controlled substance as~~
14 ~~defined in subsection (f) of Section 102 of the Illinois~~
15 ~~Controlled Substances Act, as now or hereafter amended, or~~
16 ~~a metabolite of a controlled substance, with the exception~~
17 ~~of controlled substances or metabolites of such~~
18 ~~substances, the presence of which in the newborn infant is~~
19 ~~the result of medical treatment administered to the mother~~
20 ~~or the newborn infant; or~~

21 (d) any minor under the age of 14 years whose parent or
22 other person responsible for the minor's welfare leaves
23 the minor without supervision for an unreasonable period
24 of time without regard for the mental or physical health,
25 safety, or welfare of that minor; or

26 (e) any minor who has been provided with interim

1 crisis intervention services under Section 3-5 of this Act
2 and whose parent, guardian, or custodian refuses to permit
3 the minor to return home unless the minor is an immediate
4 physical danger to himself, herself, or others living in
5 the home.

6 Whether the minor was left without regard for the mental
7 or physical health, safety, or welfare of that minor or the
8 period of time was unreasonable shall be determined by
9 considering the following factors, including but not limited
10 to:

11 (1) the age of the minor;

12 (2) the number of minors left at the location;

13 (3) special needs of the minor, including whether the
14 minor is a person with a physical or mental disability, or
15 otherwise in need of ongoing prescribed medical treatment
16 such as periodic doses of insulin or other medications;

17 (4) the duration of time in which the minor was left
18 without supervision;

19 (5) the condition and location of the place where the
20 minor was left without supervision;

21 (6) the time of day or night when the minor was left
22 without supervision;

23 (7) the weather conditions, including whether the
24 minor was left in a location with adequate protection from
25 the natural elements such as adequate heat or light;

26 (8) the location of the parent or guardian at the time

1 the minor was left without supervision, the physical
2 distance the minor was from the parent or guardian at the
3 time the minor was without supervision;

4 (9) whether the minor's movement was restricted, or
5 the minor was otherwise locked within a room or other
6 structure;

7 (10) whether the minor was given a phone number of a
8 person or location to call in the event of an emergency and
9 whether the minor was capable of making an emergency call;

10 (11) whether there was food and other provision left
11 for the minor;

12 (12) whether any of the conduct is attributable to
13 economic hardship or illness and the parent, guardian or
14 other person having physical custody or control of the
15 child made a good faith effort to provide for the health
16 and safety of the minor;

17 (13) the age and physical and mental capabilities of
18 the person or persons who provided supervision for the
19 minor;

20 (14) whether the minor was left under the supervision
21 of another person;

22 (15) any other factor that would endanger the health
23 and safety of that particular minor.

24 A minor shall not be considered neglected for the sole
25 reason that the minor has been relinquished in accordance with
26 the Abandoned Newborn Infant Protection Act.

1 (2) Those who are abused include any minor under 18 years
2 of age or a minor 18 years of age or older for whom the court
3 has made a finding of probable cause to believe that the minor
4 is abused, neglected, or dependent under subsection (1) of
5 Section 2-10 prior to the minor's 18th birthday whose parent
6 or immediate family member, or any person responsible for the
7 minor's welfare, or any person who is in the same family or
8 household as the minor, or any individual residing in the same
9 home as the minor, or a paramour of the minor's parent:

10 (i) inflicts, causes to be inflicted, or allows to be
11 inflicted upon such minor physical injury, by other than
12 accidental means, which causes death, disfigurement,
13 impairment of physical or emotional health, or loss or
14 impairment of any bodily function;

15 (ii) creates a substantial risk of physical injury to
16 such minor by other than accidental means which would be
17 likely to cause death, disfigurement, impairment of
18 emotional health, or loss or impairment of any bodily
19 function;

20 (iii) commits or allows to be committed any sex
21 offense against such minor, as such sex offenses are
22 defined in the Criminal Code of 1961 or the Criminal Code
23 of 2012, or in the Wrongs to Children Act, and extending
24 those definitions of sex offenses to include minors under
25 18 years of age;

26 (iv) commits or allows to be committed an act or acts

1 of torture upon such minor;

2 (v) inflicts excessive corporal punishment;

3 (vi) commits or allows to be committed the offense of
4 involuntary servitude, involuntary sexual servitude of a
5 minor, or trafficking in persons as defined in Section
6 10-9 of the Criminal Code of 1961 or the Criminal Code of
7 2012, upon such minor; or

8 (vii) allows, encourages or requires a minor to commit
9 any act of prostitution, as defined in the Criminal Code
10 of 1961 or the Criminal Code of 2012, and extending those
11 definitions to include minors under 18 years of age.

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

15 (3) This Section does not apply to a minor who would be
16 included herein solely for the purpose of qualifying for
17 financial assistance for himself, his parents, guardian or
18 custodian.

19 (4) The changes made by this amendatory Act of the 101st
20 General Assembly apply to a case that is pending on or after
21 the effective date of this amendatory Act of the 101st General
22 Assembly.

23 (Source: P.A. 101-79, eff. 7-12-19.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.