



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

#### HB1468

Introduced 1/31/2023, by Rep. La Shawn K. Ford

#### SYNOPSIS AS INTRODUCED:

New Act

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

Creates the Family Care Plans for Infants and Families Act. Requires the Department of Public Health, in consultation with specified agencies and entities, to develop guidelines for hospitals, birthing centers, medical providers, Medicaid managed care organizations, and private insurers on how to conduct a family needs assessment and create a family care plan for an infant who may exhibit clinical signs of withdrawal from a controlled substance or medication. Requires an infant's family care plan to include a family needs assessment performed by a social worker or any other appropriate and trained individual or agency. Requires a licensed health care professional or social worker to complete a family care plan that shall include supports and services to be provided to the infant and the infant's parent or caregiver. Contains provisions concerning information that must be provided under a family care plan; notice to the Department of Public Health when an infant's parent or caregiver fails to adhere to a family care plan; exceptions to a finding of nonadherence; educational materials and training for hospital employees and others on the difference between notification requirements to report the birth of a substance-exposed infant and notification requirements to report alleged child abuse and neglect; and other matters. Provides that notice to the Department of Public Health on the birth of a substance-exposed infant shall not be construed to mean that prenatal substance use is intrinsically considered child abuse or neglect. Amends the Abused and Neglected Child Reporting Act and the Juvenile Court Act of 1987. 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. Effective immediately.

LRB103 00103 KTG 45104 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 1. Short title. This Act may be cited as the Family  
5 Care Plans for Infants and Families Act.

6 Section 10. Legislative findings. The General Assembly  
7 finds the following:

8 (1) Addiction is a disease amenable to treatment  
9 rather than a criminal activity.

10 (2) Transplacental drug transfer should not be subject  
11 to criminal sanctions or civil liability.

12 (3) Pregnant and parenting individuals with an opioid  
13 use disorder or other substance use disorder should be  
14 encouraged to enter treatment and not suffer punitive  
15 actions for starting or continuing treatment, including  
16 when medications for opioid use disorder are part of the  
17 treatment protocol.

18 Physicians should be alert to signs of possible  
19 alcohol use disorder in their patients who may become  
20 pregnant, not only those who are pregnant, and institute  
21 appropriate diagnostic and therapeutic measures as early  
22 as possible. Treatment of alcohol use disorder and  
23 cessation of alcohol use can improve pregnancy and newborn

1 outcomes.

2 (4) The presence of medication for an opioid use  
3 disorder or the treatment of an opioid use disorder with  
4 medications should never by itself be grounds for family  
5 separation.

6 (5) There is a pressing need for adequate maternal  
7 treatment for substance use disorders and supportive care  
8 for families, including the appropriate use of family  
9 needs assessments and family care plans.

10 (6) Support is crucial for establishing and making  
11 broadly available evidence-based treatment programs for  
12 pregnant, peripartum, postpartum, and parenting  
13 individuals wherever possible.

14 (7) The American Medical Association opposes efforts  
15 to criminalize maternal drug addiction or to require  
16 physicians or other health care professionals to function  
17 as agents of law enforcement, including gathering evidence  
18 for family separation or prosecution.

19 (8) The cooperation and coordination of supportive  
20 services for pregnant, peripartum, and postpartum  
21 individuals and families are essential to help newborns  
22 and children in encouraging and supporting treatment and  
23 safety.

24 (9) State agencies and others benefit when policies  
25 are based on the understanding that alcohol use disorder,  
26 opioid use disorder, and other substance use disorders are

1 diseases characterized by compulsive use in the face of  
2 adverse consequences. They are not moral failings.

3 (10) When notifications of prenatal drug or alcohol  
4 exposure are distinct from reports of alleged child abuse  
5 and neglect, the National Center on Substance Abuse and  
6 Child Welfare identified resulting benefits to child  
7 protective services, health care professionals, pregnant  
8 individuals, newborns, and families, including increased  
9 use of plans of safe care.

10 (11) Individuals who are pregnant, postpartum, and  
11 parenting, including other individuals who care for an  
12 infant, may benefit from a family needs assessment at any  
13 time during the pregnancy or parenting process.

14 (12) Under federal law, there are distinct pathways  
15 and reasons for a "notification" of clinical signs of  
16 withdrawal or a "report" of alleged child abuse or  
17 neglect.

18 Section 15. Definitions. As used in this Act:

19 "Affected infant" means a substance-exposed infant  
20 requiring notification as required under this Act.

21 "Department" means the Department of Public Health.

22 "Family needs assessment" means an evaluation at any time  
23 during a pregnancy, peripartum, or postpartum period of the  
24 strengths, needs, and capacities of a parent or caregiver,  
25 including a relative caregiver, to help identify safety

1 concerns, risks, strengths, and resources that can lead to the  
2 best possible response for an infant and the infant's parent,  
3 family, or caregiver. This includes identifying appropriate  
4 services or referral for further assessment and evaluation to  
5 assist with parenting skills and competencies, family  
6 functioning, physical and mental health, social determinants  
7 of health, and other factors that may be identified to help the  
8 infant and the infant's parent, family, or caregiver. Such  
9 assessment is encouraged to include interviews, one or more  
10 home visits, and consultation with health care professionals  
11 involved in the care of the infant, parent, or caregiver.

12 "Family care plan" or "plan of care" means a written or  
13 electronic plan created by one or more professionals with  
14 expertise in child and family welfare and needs assessments,  
15 including health care professionals, child and adolescent  
16 social workers, case managers, or other child welfare experts,  
17 as applicable, that is intended to ensure the safety and  
18 well-being of an affected infant by identifying strengths,  
19 supports, and goals identified by the infant's family and  
20 caregiver in support of the safety of the infant and  
21 unification of the family.

22 "Guardian" means a person appointed guardian, or given  
23 custody, of a minor by a circuit court of the State.

24 "Guardian ad litem" means an attorney appointed by a court  
25 to represent and protect the best interests of a child.

26 "Medication for opioid use disorder" or "medication to

1 treat opioid use disorder" means a prescribed course of  
2 treatment that may include methadone, buprenorphine,  
3 naltrexone, or other FDA-approved or evidence-based  
4 medications for the treatment of an opioid use disorder or  
5 other substance use disorder.

6 "Notification" means notice given to the Department of  
7 Public Health, consistent with federal requirements under the  
8 Child Abuse Prevention and Treatment Act, that an affected  
9 infant was born.

10 "Parent" includes a biological or adoptive parent if the  
11 biological or adoptive parent has a constitutionally protected  
12 liberty interest in the care and custody of the child.

13 "Postpartum period" means at least one year following the  
14 birth of an infant.

15 "Relative" means a person related to another person by  
16 blood within the fifth degree of consanguinity or through  
17 marriage by the fifth degree of affinity.

18 "Report of alleged abuse or neglect" means a report to the  
19 Department of Children and Family Services that an affected  
20 infant was subject to alleged abuse or neglect.

21 "Reunification" means either a return of the infant to the  
22 parent or to the home from which the infant or child was  
23 removed or a return of the infant or child to the noncustodial  
24 parent.

25 "Substance" means alcohol, cannabis, or any other drug or  
26 medication.

1 "Withdrawal" means a group of clinical signs of withdrawal  
2 in an infant following the discontinuation of a drug,  
3 substance, or medication that has the capability of producing  
4 features or symptoms of physical dependence. "Withdrawal"  
5 includes symptoms occurring following the discontinuation of  
6 illicit drugs or substances (such as heroin), medications to  
7 treat substance use disorder (such as buprenorphine), or  
8 medications to treat a nonsubstance use disorder (such as  
9 sertraline).

10 Section 20. Creation of a family care plan.

11 (a) No later than 6 months following the effective date of  
12 this Act, the Department of Public Health, in consultation  
13 with relevant professional medical societies, child welfare  
14 advocates, Medicaid managed care organizations, private  
15 insurers, the Department of Insurance, the Department of  
16 Healthcare and Family Services, and the Department of Human  
17 Services' Division of Substance Use Prevention and Recovery,  
18 shall develop guidelines for hospitals, birthing centers,  
19 medical providers, Medicaid managed care organizations, and  
20 private insurers on how to conduct a family needs assessment  
21 and create a family care plan for an infant who may exhibit  
22 clinical signs of withdrawal.

23 (b) Nothing in this Act shall prevent the development and  
24 implementation of a family care plan at any time during a  
25 pregnancy, postpartum period, or during the course of

1 parenting.

2 (c) The family care plan shall include a family needs  
3 assessment to be performed by a discharge planner, social  
4 worker, case manager, or any other appropriate and trained  
5 individual or agency at any point during a pregnancy or prior  
6 to an infant's discharge from a hospital or birthing center,  
7 or at any point during the postpartum period.

8 (d) The family care plan shall be completed by a licensed  
9 health care professional, social worker, case manager, or  
10 other individual or care team with education, training, and  
11 experience in developing and implementing individualized  
12 family care plans. The family care plan shall include supports  
13 and services identified in the family needs assessment that  
14 are to be provided, to the extent practicable, by the  
15 following:

- 16 (1) Early intervention service providers.
- 17 (2) Head Start and Early Head Start programs.
- 18 (3) Home visitation programs.
- 19 (4) Hospitals and medical providers.
- 20 (5) Justice-related entities, including restorative  
21 justice programs.
- 22 (6) Local education agencies.
- 23 (7) Managed care organizations.
- 24 (8) Maternal and child health agencies.
- 25 (9) Mental health providers.
- 26 (10) Parenting services.



1 (11) Public and private children and youth agencies.

2 (12) Public health agencies.

3 (13) Substance use disorder prevention and treatment  
4 providers.

5 (14) The infant's parent, relative, guardian, family  
6 member, or caregiver who is engaged in the infant's care,  
7 in order to identify the need for access to treatment for  
8 any substance use disorder or other physical or behavioral  
9 health condition that may impact the safety, early  
10 childhood development, and well-being of the infant.

11 (e) The family care plan shall be coordinated by a  
12 certified local health department under the Department of  
13 Public Health with all other appropriate agencies to be  
14 included as supports and services under the family care plan,  
15 based on the family needs assessment and the availability of  
16 supports.

17 (f) The guidelines described in subsection (a) shall be  
18 provided to hospitals, birthing centers, medical providers,  
19 State agencies, courts, Medicaid managed care organizations,  
20 private insurers, and others who may be engaged in the  
21 implementation and support of a family care plan. The  
22 guidelines shall include, at a minimum, information regarding:

23 (1) Clarification that an individual receiving  
24 treatment for a substance use disorder shall not be  
25 referred to the Department of Children and Family  
26 Services, law enforcement, or any other justice-involved

1           investigatory body solely on the basis of the individual's  
2           treatment for that substance use disorder, including when  
3           the individual receives medication to treat opioid use  
4           disorder.

5           (2) Contact information for the certified local health  
6           department responsible for coordinating implementation of  
7           the family care plan.

8           Section 25. Support for implementation of a family care  
9           plan.

10          (a) The family care plan provided to an affected infant's  
11          parent, relative, guardian, family member, or caregiver shall  
12          provide, at a minimum:

13                 (1) information on how to keep the affected infant  
14                 healthy, including supports such as financial help, child  
15                 care, and health care services; and

16                 (2) information that connects the parent, relative,  
17                 guardian, family member, or caregiver to resources,  
18                 including public benefits for health care, food and  
19                 housing, support groups, transportation, employment  
20                 assistance, well-baby and well-child visits, and  
21                 information that may include safe sleep plans, smoking  
22                 cessation, parenting groups, home visiting, and other  
23                 necessary services that may be needed to further the goals  
24                 of this Act.

25          (b) An affected infant's parent, relative, guardian,

1 family member, or caregiver who is engaged in the family care  
2 plan shall qualify for the protections, benefits, and supports  
3 under this Act while the individual remains in treatment and  
4 the treating physician affirms the individual's treatment  
5 status.

6 (c) Nothing in this Act shall prohibit implementation of a  
7 family care plan during the prenatal period for a pregnant  
8 person.

9 (d) A parent, relative, guardian, family member, or  
10 caregiver who is engaged in the care of the affected infant and  
11 who is referred for treatment for a substance use disorder at a  
12 facility that receives public funding shall be a priority user  
13 of available treatment. The Department shall make all  
14 reasonable efforts to keep the affected infant and the  
15 infant's family intact.

16 (e) If the parent, relative, guardian, family member, or  
17 caregiver engaged in the care of the affected infant has  
18 unstable housing, the Department of Public Health shall take  
19 immediate steps to ensure the parent, relative, guardian,  
20 family member, or caregiver remains with the affected infant  
21 in a location to be identified and funded by the State or local  
22 community. The Department of Public Health shall ensure the  
23 parent, relative, guardian, family member, or caregiver  
24 engaged in the care of the affected infant has continued  
25 access to treatment, with appropriate staffing to support  
26 treatment for a substance use disorder, including the

1 continuation of medications to treat an opioid use disorder,  
2 as applicable.

3 (f) If a person engaged in the care of the affected infant  
4 is or becomes pregnant, and that person requires treatment for  
5 a substance use disorder or mental illness, a health insurer,  
6 the Department of Healthcare and Family Services, or some  
7 other payer shall be required to ensure the person receives an  
8 appointment with a physician of the appropriate medical  
9 specialty as soon as possible.

10 (g) Updates and feedback on implementation of the family  
11 care plan shall be undertaken with input from the affected  
12 infant's parent or caregiver and in collaboration with the  
13 health care provider and other professionals and agencies  
14 involved in serving the affected infant and the affected  
15 infant's family.

16 Section 30. Notification of nonadherence with family care  
17 plan.

18 (a) If the parent, relative, guardian, or caretaker of an  
19 affected infant who was released from a hospital or  
20 freestanding birthing center pursuant to a family care plan is  
21 not able to adhere to the plan, thereby creating a substantial  
22 risk that the infant's health and safety will be in jeopardy,  
23 the Department of Public Health shall be notified, and there  
24 shall be a family needs assessment conducted to determine why  
25 adherence to the family care plan is not possible and how to

1 implement solutions to best support the affected infant and  
2 the infant's family.

3 (b) Based on the results of the family needs assessment,  
4 the Department of Public Health may offer or provide referrals  
5 for counseling, training, or other services contemplated under  
6 this Act aimed at addressing the underlying causative factors  
7 that are needed to support the safety or well-being of the  
8 affected infant and the infant's family.

9 (c) The affected infant's parent, relative, guardian, or  
10 caretaker may choose to accept or decline any service or  
11 program offered after the family needs assessment. However, if  
12 the affected infant's parent, relative, guardian, or caretaker  
13 declines those services or programs, the Department of Public  
14 Health may take that into account when necessary to proceed  
15 with potential next steps to safeguard the health and safety  
16 of the affected infant. Such steps may include:

17 (1) additional care coordination with medical and  
18 social work providers or case managers;

19 (2) coordination with additional State or community  
20 supports;

21 (3) petitioning the court to appoint a guardian ad  
22 litem;

23 (4) referral to a child welfare agency; or

24 (5) other actions as may be necessary under the  
25 circumstances.

26 The Department of Public Health shall provide notice of

1 nonadherence as soon as practicable to the affected infant's  
2 primary care physician.

3 (d) Withdrawal symptoms exhibited by an affected infant as  
4 result of prescription medication use by the infant's pregnant  
5 parent, relative, guardian, or caretaker shall not by itself  
6 warrant a finding of nonadherence if:

7 (1) the individual was prescribed the prescription  
8 medication while under the care of a prescribing medical  
9 professional;

10 (2) the individual used the prescription medication as  
11 directed by the prescribing medical professional and in  
12 compliance with directions on the proper administration of  
13 the prescription medication; and

14 (3) the use and administration of the prescription  
15 medication is verified by the health care provider  
16 involved in the delivery or care of the affected infant or  
17 the individual.

18 Section 35. Notification of affected infant.

19 (a) All hospitals, birthing centers, law enforcement  
20 agencies, child welfare agencies, certified local health  
21 departments, and other applicable entities shall be required  
22 to furnish its employees with educational information and  
23 materials regarding distinctions between the requirements for  
24 notification to the Department of Public Health concerning a  
25 substance-exposed infant and the requirements for making a

1 report of alleged child abuse or neglect to the Department of  
2 Children and Family Services.

3 (b) A notification shall be construed to satisfy all  
4 applicable State and federal reporting requirements. A  
5 notification shall not constitute a report of child abuse or  
6 neglect. A notification shall not be construed to allege,  
7 establish, or conclude a finding or presumption of child abuse  
8 or neglect.

9 (c) A notification may be made if, in the professional  
10 judgment of the treating health care professional, a newborn  
11 infant exhibits clinical signs or findings of withdrawal  
12 symptoms, which may be due to intrauterine exposure to  
13 medication that was prescribed to the infant's birth mother  
14 during her pregnancy.

15 (d) A notification, rather than a report of alleged abuse  
16 or neglect, may be made if the health care practitioner or any  
17 other individual involved in the care of the newborn infant or  
18 mother has verified that:

19 (1) the mother was using a controlled substance as  
20 prescribed by a licensed health care practitioner,  
21 including medications for the treatment of a substance use  
22 disorder;

23 (2) the presence of the controlled substance was  
24 consistent with a prescribed treatment administered to the  
25 mother or the newborn infant during the prenatal or  
26 postpartum period; or

1           (3) the mother or any other parent, relative,  
2           guardian, family member, or caretaker engaged in the care  
3           of the newborn infant does not, in the health care  
4           practitioner's professional judgment, pose a threat to the  
5           health or safety of the newborn infant.

6           The requirement for notification shall not be construed to  
7           mean that prenatal substance use is intrinsically considered  
8           child maltreatment, abuse, or neglect, or to prevent  
9           reunification.

10          When a notification is required, it shall not be construed  
11          as a requirement for further investigation by a law  
12          enforcement agency or other agency.

13          A notification may include a copy of the family plan of  
14          care that was created for the newborn infant. A notification  
15          shall not include identifying information of the newborn  
16          infant who was exposed to a substance or of the individual from  
17          whom the prenatal, peripartum, or postpartum exposure was  
18          transferred.

19          A notification made under this Section shall be considered  
20          confidential and only released to a law enforcement agency or  
21          other agency pursuant to a finding of probable cause.

22          (e) Nothing in this Act shall be construed to prevent a  
23          person from reporting to the Department of Children and Family  
24          Services a reasonable suspicion that an infant is an abused or  
25          neglected child based on other criteria or a combination of  
26          criteria that includes a finding pursuant to this Section.



1 (f) If a mother discloses her use of a substance while  
2 pregnant, or if there is a positive toxicology screen or  
3 presence of clinical signs of withdrawal in a newborn infant,  
4 prior to making a notification or report, to the extent  
5 practicable, there shall be a consultation between the person  
6 seeking to make the report and the physicians and other health  
7 care professionals treating the newborn infant and mother.  
8 Such consultation shall include consideration of:

9 (1) Which substances affected the newborn infant.

10 (2) Whether the clinical signs, symptoms, or findings  
11 were the result of medication used by the mother in  
12 accordance with a prescription issued by a health care  
13 provider.

14 (3) The impact of the substances on the newborn  
15 infant.

16 (4) Medical care the newborn infant and mother are now  
17 receiving.

18 (5) Medical care the newborn infant may require during  
19 or beyond the postpartum period.

20 (6) An existing or in-development family care plan for  
21 the newborn infant and family at discharge.

22 (7) Whether the mother, parent, relative, guardian,  
23 family member, or caregiver engaged in the care of the  
24 newborn infant, or any other individual residing in the  
25 same residence as the newborn infant, is receiving  
26 treatment for a substance use disorder or other services

1 and, if so, the identity of the providers of such  
2 treatment or services.

3 (g) If a pregnant person initiates treatment for a  
4 substance use disorder, and remains in treatment throughout  
5 the remaining term of the pregnancy, peripartum, and  
6 postpartum period, then the Department of Children and Family  
7 Services, a law enforcement agency, or any other agency may  
8 not initiate an investigation, file any petition to terminate  
9 the mother's parental rights, or otherwise seek protection of  
10 the infant because of the person's use of medication or other  
11 substances for nonmedical purposes during the term of the  
12 person's pregnancy. This Section shall also apply to  
13 individuals residing with the pregnant person during the  
14 prenatal and postpartum period.

15 (h) Nothing in this Act shall prevent the Department of  
16 Children and Family Services, a law enforcement agency, or  
17 other agency from coordinating with the Department of Public  
18 Health or a certified local public health department to  
19 initiate a family needs assessment.

20 Section 40. Data collection; training.

21 (a) The Department of Public Health shall be responsible  
22 for the collection and reporting of de-identified data to meet  
23 federal and State reporting requirements, including the  
24 following:

25 (1) The number of persons giving birth to an affected

1 infant.

2 (2) The number of infants identified as being affected  
3 by substance use, withdrawal symptoms, or fetal alcohol  
4 spectrum disorder.

5 (3) The number of infants for whom a family care plan  
6 was developed, implemented, and monitored.

7 (4) The number of infants for whom referrals were made  
8 for appropriate services, including services for the  
9 parents, relatives, guardians, family members, or  
10 caretakers engaged in the care of the infant.

11 (5) The implementation of such plans to determine  
12 whether and in what manner local entities are providing,  
13 in accordance with State requirements, referrals to and  
14 delivery of appropriate services for the infant and the  
15 parents, relatives, guardians, family members, or  
16 caretakers engaged in the care of the infant.

17 (6) The number and location of hospitals and birthing  
18 centers with established protocols and processes to ensure  
19 notification to the Department of Public Health when: (i)  
20 a family care plan has been developed; and (ii) a family  
21 has been referred for a plan of care.

22 (b) Such de-identified data and other information as  
23 required under this Section shall also include:

24 (1) The race, ethnicity, and gender of both the infant  
25 and the infant's biological or legal parent.

26 (2) The insurance status of the infant and biological

1 mother.

2 (3) The zip code, county, or other geographic location  
3 where the legal parent resides, or whether the legal  
4 parent has unstable housing.

5 (4) The number, gender, race, and ethnicity of infants  
6 placed under an order of protection or placed in foster  
7 care, including whether such order or placement was made  
8 in consultation with the treating physician.

9 (5) The number, age, race, ethnicity, and insurance  
10 status of persons who were referred to treatment.

11 (6) Reports made in accordance with this Section shall  
12 be considered confidential and only released to a law  
13 enforcement agency pursuant to a finding of probable  
14 cause.

15 (7) The Department of Public Health shall summarize  
16 and report data received in accordance with this Section  
17 at intervals as needed to meet State and federal laws.

18 (c) The Department of Public Health shall seek to  
19 coordinate with medical professional societies, social work  
20 agencies, and all other relevant agencies and State and  
21 community supports to create and distribute training materials  
22 to support and educate health care professionals, discharge  
23 planners, social workers, case managers, law enforcement, and  
24 others on the following:

25 (1) The differences between a "notification" and a  
26 "report" as defined in this Act.

1           (2) The important role a family needs assessment plays  
2           in providing essential services for the health and  
3           well-being of an infant and the infant's family.

4           (3) The importance of a family care plan to provide  
5           essential supports for an infant, parent, and other  
6           caregivers.

7           (4) The role of the Department of Public Health in  
8           coordinating a family needs assessment and family care  
9           plan, and the role of State and community supports to  
10          implement such assessments and family care plans.

11          (d) The Department of Public Health, in coordination with  
12          the other relevant agencies, medical professionals, and State  
13          and community supports described in subsection (c) shall  
14          conduct annual trainings on the requirements under this Act.

15          (e) No person shall have a cause of action for any loss or  
16          damage caused by any act or omission resulting from the  
17          implementation of the provisions of this Section or resulting  
18          from any training, or lack thereof, required by this Section.

19          Section 90. Severability. If any provision of this Act or  
20          its application to any person or circumstance is held invalid,  
21          the invalidity of that provision or application does not  
22          affect other provisions or applications of this Act that can  
23          be given effect without the invalid provision or application,  
24          and to this end the provisions of this Act are declared to be  
25          severable.

1           Section 91. The Abused and Neglected Child Reporting Act  
2 is amended by changing Section 3 as follows:

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

4           Sec. 3. As used in this Act unless the context otherwise  
5 requires:

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

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

17           "Blatant disregard" means an incident where the real,  
18 significant, and imminent risk of harm would be so obvious to a  
19 reasonable parent or caretaker that it is unlikely that a  
20 reasonable parent or caretaker would have exposed the child to  
21 the danger without exercising precautionary measures to  
22 protect the child from harm. With respect to a person working  
23 at an agency in his or her professional capacity with a child  
24 or adult resident, "blatant disregard" includes a failure by

1 the person to perform job responsibilities intended to protect  
2 the child's or adult resident's health, physical well-being,  
3 or welfare, and, when viewed in light of the surrounding  
4 circumstances, evidence exists that would cause a reasonable  
5 person to believe that the child was neglected. With respect  
6 to an agency, "blatant disregard" includes a failure to  
7 implement practices that ensure the health, physical  
8 well-being, or welfare of the children and adult residents  
9 residing in the facility.

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

13 "Department" means Department of Children and Family  
14 Services.

15 "Local law enforcement agency" means the police of a city,  
16 town, village or other incorporated area or the sheriff of an  
17 unincorporated area or any sworn officer of the Illinois State  
18 Police.

19 "Abused child" means a child whose parent or immediate  
20 family member, or any person responsible for the child's  
21 welfare, or any individual residing in the same home as the  
22 child, or a paramour of the child's parent:

23 (a) inflicts, causes to be inflicted, or allows to be  
24 inflicted upon such child physical injury, by other than  
25 accidental means, which causes death, disfigurement,  
26 impairment of physical or emotional health, or loss or

1           impairment of any bodily function;

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

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

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

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

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

22           (g) causes to be sold, transferred, distributed, or  
23 given to such child under 18 years of age, a controlled  
24 substance as defined in Section 102 of the Illinois  
25 Controlled Substances Act in violation of Article IV of  
26 the Illinois Controlled Substances Act or in violation of



1 the Methamphetamine Control and Community Protection Act,  
2 except for controlled substances that are prescribed in  
3 accordance with Article III of the Illinois Controlled  
4 Substances Act and are dispensed to such child in a manner  
5 that substantially complies with the prescription;

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

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

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

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

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

1 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  
6 under 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  
9 The School Code, as amended.

10 "Child Protective Service Unit" means certain specialized  
11 State employees of the Department assigned by the Director to  
12 perform the duties and responsibilities as provided under  
13 Section 7.2 of this Act.

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

19 "Great bodily harm" includes bodily injury which creates a  
20 high probability of death, or which causes serious permanent  
21 disfigurement, or which causes a permanent or protracted loss  
22 or impairment of the function of any bodily member or organ, or  
23 other serious bodily harm.

24 "Person responsible for the child's welfare" means the  
25 child's parent; guardian; foster parent; relative caregiver;  
26 any person responsible for the child's welfare in a public or

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

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

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

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

4 "An undetermined report" means any report made under this  
5 Act in which it was not possible to initiate or complete an  
6 investigation on the basis of information provided to the  
7 Department.

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

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

18 "Member of the clergy" means a clergyman or practitioner  
19 of any religious denomination accredited by the religious body  
20 to which he or she belongs.

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

23 (325 ILCS 5/4.4 rep.)

24 Section 92. The Abused and Neglected Child Reporting Act  
25 is amended by repealing Section 4.4.

1           Section 93. The Juvenile Court Act of 1987 is amended by  
2 changing Section 2-3 as follows:

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

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

5           (1) Those who are neglected include:

6                   (a) 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 who is not  
11 receiving the proper or necessary support, education as  
12 required by law, or medical or other remedial care  
13 recognized under State law as necessary for a minor's  
14 well-being, or other care necessary for his or her  
15 well-being, including adequate food, clothing and shelter,  
16 or who is abandoned by his or her parent or parents or  
17 other person or persons responsible for the minor's  
18 welfare, except that a minor shall not be considered  
19 neglected for the sole reason that the minor's parent or  
20 parents or other person or persons responsible for the  
21 minor's welfare have left the minor in the care of an adult  
22 relative for any period of time, who the parent or parents  
23 or other person responsible for the minor's welfare know  
24 is both a mentally capable adult relative and physically

1 capable adult relative, as defined by this Act; or

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

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

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

22 (e) any minor who has been provided with interim  
23 crisis intervention services under Section 3-5 of this Act  
24 and whose parent, guardian, or custodian refuses to permit  
25 the minor to return home unless the minor is an immediate  
26 physical danger to himself, herself, or others living in

1 the home.

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

7 (1) the age of the minor;

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

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

13 (4) the duration of time in which the minor was left  
14 without supervision;

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

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

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

22 (8) the location of the parent or guardian at the time  
23 the minor was left without supervision, the physical  
24 distance the minor was from the parent or guardian at the  
25 time the minor was without supervision;

26 (9) whether the minor's movement was restricted, or



1 the minor was otherwise locked within a room or other  
2 structure;

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

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

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

13 (13) the age and physical and mental capabilities of  
14 the person or persons who provided supervision for the  
15 minor;

16 (14) whether the minor was left under the supervision  
17 of another person;

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

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

23 (2) Those who are abused include any minor under 18 years  
24 of age or a minor 18 years of age or older for whom the court  
25 has made a finding of probable cause to believe that the minor  
26 is abused, neglected, or dependent under subsection (1) of

1 Section 2-10 prior to the minor's 18th birthday whose parent  
2 or immediate family member, or any person responsible for the  
3 minor's welfare, or any person who is in the same family or  
4 household as the minor, or any individual residing in the same  
5 home as the minor, or a paramour of the minor's parent:

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

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

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

22 (iv) commits or allows to be committed an act or acts  
23 of torture upon such minor;

24 (v) inflicts excessive corporal punishment;

25 (vi) commits or allows to be committed the offense of  
26 involuntary servitude, involuntary sexual servitude of a

1 minor, or trafficking in persons as defined in Section  
2 10-9 of the Criminal Code of 1961 or the Criminal Code of  
3 2012, upon such minor; or

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

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

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

15 (4) The changes made by this amendatory Act of the 101st  
16 General Assembly apply to a case that is pending on or after  
17 the effective date of this amendatory Act of the 101st General  
18 Assembly.

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

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