



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2246

Introduced 2/10/2023, by Sen. Kimberly A. Lightford

SYNOPSIS AS INTRODUCED:

325 ILCS 5/6
325 ILCS 5/7.4

from Ch. 23, par. 2056
from Ch. 23, par. 2057.4

Sets forth certain protections that must be provided to any subject of an abuse or neglect investigation whenever the Department of Children and Family Services consults with and relies upon the opinion of a medically trained professional as to whether there is evidence of abuse or neglect. Provides that no child or family member of a child who is the subject of an investigation shall be required to submit to additional medical tests, for investigation purposes only, during the investigation. Requires a consulting medical professional who is employed or under contract with the Department to identify himself or herself as a forensic consultant, rather than as a member of the child's treatment team, whenever the individual has direct contact with the child or the family of the child. Provides that the subject of a report shall have the opportunity to submit a second medical opinion as to whether there is evidence of abuse or neglect. Requires the Department to annually prepare and make available on the Department's Reports and Statistics webpage a report on the number of children referred to a consulting medical professional for forensic opinion. Provides that the first report must be posted by March 31, 2024. Sets forth certain data and information that must be contained in the annual report.

LRB103 30764 KTG 57248 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. Findings. The General Assembly finds as
5 follows:

6 (1) Any case involving allegations of child abuse or
7 neglect raise the potential for risk of error and trauma if the
8 determination made at the conclusion of the investigation is
9 incorrect.

10 (2) The Department relies on the expertise of medical
11 professional consultants in order to understand and assess the
12 validity of hotline calls reporting abuse or neglect. The
13 Department has established contracts and consultations with
14 doctors and other medical professionals for the purpose of
15 obtaining their opinion during child abuse and neglect
16 investigations conducted throughout Illinois in accordance
17 with this Act.

18 (3) Such contracts and consultations, as currently
19 constituted, include input from law enforcement, county
20 state's attorneys, and other local agencies. A balance of
21 consideration of alternative explanations and information from
22 independent sources has not been developed in Illinois.
23 Consequently, parents, guardians, and others do not have equal
24 access and an ability to contribute potentially dispositive

1 information during a child abuse or neglect investigations.

2 (4) There is extensive controversy over whether medical
3 conclusions such as "shaken baby syndrome", metaphyseal
4 fractures, Ehlers Danlos syndrome, rickets and Vitamin D
5 deficiency, and Munchausen's Syndrome by Proxy are the causes
6 or contributors to children's reported injuries, symptoms, or
7 conditions. There are many conditions that mimic child abuse.
8 Some common beliefs about child abuse being idiopathic to
9 certain conditions have been shown to be demonstrably false
10 (such as that a triad of conditions necessarily means that a
11 child must have been shaken or that the last person with the
12 child must have been the person who injured the child).

13 (5) Children with rare diseases and disabilities are
14 particularly at risk of having medical conditions overlooked
15 or misunderstood as child abuse.

16 (6) As a result of these medical misunderstandings and the
17 lack of up-to-date information grounded in science, innocent
18 parents have been targeted as child abusers and child
19 neglectors, and have been imprisoned, fired, or had their
20 children taken into state custody or their rights of access to
21 their children restricted whenever a person with the title
22 "child abuse pediatrician" contends that the parent's child is
23 abused, even when that opinion is erroneous.

24 (7) A right as basic as the right to consent to the release
25 of medical records is not adequately protected in the context
26 of any hotline call investigation.

1 (8) There is currently no limitation on a medical
2 professional's participation in a child abuse or neglect
3 investigation even when the medical professional, or the
4 medical professional's colleague or employment institution,
5 directly participated in the making of the hotline call that
6 triggered the abuse or neglect investigation.

7 (9) The interest of truth in science, common sense, and
8 justice require that access to objective scientific
9 information should not be the privilege of one side to a
10 reasonable dispute as to medical science.

11 (10) The State of Illinois currently has no system of
12 independent review of the accuracy of the forensic opinions
13 rendered by child abuse pediatricians who hold contracts
14 through child advocacy centers and hospitals.

15 (11) Parents report being blindsided and misinformed as to
16 the role of the child abuse pediatrician in many cases,
17 including ones where no abuse was ultimately found.

18 (12) News reports by NBC News have highlighted cases in
19 which grievous errors in medical opinions rendered by child
20 abuse pediatricians, and relied upon by state agencies during
21 child abuse and neglect investigations, have led to grave
22 injustices that could be remedied with modest procedural
23 protections for the fairness of such investigations.

24 (13) Doctors take an oath to "first do no harm" but there
25 is no system in the State of Illinois for redressing and
26 mitigating the harm to families who have been the victims of

1 wrongful child abuse or neglect allegations.

2 Section 5. The Abused and Neglected Child Reporting Act is
3 amended by changing Sections 6 and 7.4 as follows:

4 (325 ILCS 5/6) (from Ch. 23, par. 2056)

5 Sec. 6. Any person required to investigate cases of
6 suspected child abuse or neglect may not take or cause to be
7 taken, ~~at Department expense,~~ color photographs and x-rays of
8 the child who is the subject of a report, and color photographs
9 of the physical environment in which the alleged abuse or
10 neglect has taken place, except if there are exigent
11 circumstances, or if there is a need for such photographs or
12 x-rays for emergency treatment of the child, or if the person
13 responsible for the child's welfare gives consent to the
14 taking of such photographs or x-rays. The person seeking to
15 take such photographs or x-rays shall make every reasonable
16 effort to notify the person responsible for the child's
17 welfare. The person required to investigate cases of suspected
18 child abuse or neglect shall not threaten removal of a child or
19 other legal action if the person reasonable for the child's
20 welfare refuses to consent to the taking of photographs or
21 x-rays.

22 (Source: P.A. 84-611.)

23 (325 ILCS 5/7.4) (from Ch. 23, par. 2057.4)

1 Sec. 7.4. (a) The Department shall be capable of receiving
2 reports of suspected child abuse or neglect 24 hours a day, 7
3 days a week. Whenever the Department receives a report
4 alleging that a child is a truant as defined in Section 26-2a
5 of the School Code, as now or hereafter amended, the
6 Department shall notify the superintendent of the school
7 district in which the child resides and the appropriate
8 superintendent of the educational service region. The
9 notification to the appropriate officials by the Department
10 shall not be considered an allegation of abuse or neglect
11 under this Act.

12 (a-5) The Department of Children and Family Services may
13 implement a "differential response program" in accordance with
14 criteria, standards, and procedures prescribed by rule. The
15 program may provide that, upon receiving a report, the
16 Department shall determine whether to conduct a family
17 assessment or an investigation as appropriate to prevent or
18 provide a remedy for child abuse or neglect.

19 For purposes of this subsection (a-5), "family assessment"
20 means a comprehensive assessment of child safety, risk of
21 subsequent child maltreatment, and family strengths and needs
22 that is applied to a child maltreatment report that does not
23 allege substantial child endangerment. "Family assessment"
24 does not include a determination as to whether child
25 maltreatment occurred but does determine the need for services
26 to address the safety of family members and the risk of

1 subsequent maltreatment.

2 For purposes of this subsection (a-5), "investigation"
3 means fact-gathering related to the current safety of a child
4 and the risk of subsequent abuse or neglect that determines
5 whether a report of suspected child abuse or neglect should be
6 indicated or unfounded and whether child protective services
7 are needed.

8 Under the "differential response program" implemented
9 under this subsection (a-5), the Department:

10 (1) Shall conduct an investigation on reports
11 involving substantial child abuse or neglect.

12 (2) Shall begin an immediate investigation if, at any
13 time when it is using a family assessment response, it
14 determines that there is reason to believe that
15 substantial child abuse or neglect or a serious threat to
16 the child's safety exists.

17 (3) May conduct a family assessment for reports that
18 do not allege substantial child endangerment. In
19 determining that a family assessment is appropriate, the
20 Department may consider issues, including, but not limited
21 to, child safety, parental cooperation, and the need for
22 an immediate response.

23 (4) Shall promulgate criteria, standards, and
24 procedures that shall be applied in making this
25 determination, taking into consideration the Child
26 Endangerment Risk Assessment Protocol of the Department.

1 (5) May conduct a family assessment on a report that
2 was initially screened and assigned for an investigation.

3 In determining that a complete investigation is not
4 required, the Department must document the reason for
5 terminating the investigation and notify the local law
6 enforcement agency or the Illinois State Police if the local
7 law enforcement agency or Illinois State Police is conducting
8 a joint investigation.

9 Once it is determined that a "family assessment" will be
10 implemented, the case shall not be reported to the central
11 register of abuse and neglect reports.

12 During a family assessment, the Department shall collect
13 any available and relevant information to determine child
14 safety, risk of subsequent abuse or neglect, and family
15 strengths.

16 Information collected includes, but is not limited to,
17 when relevant: information with regard to the person reporting
18 the alleged abuse or neglect, including the nature of the
19 reporter's relationship to the child and to the alleged
20 offender, and the basis of the reporter's knowledge for the
21 report; the child allegedly being abused or neglected; the
22 alleged offender; the child's caretaker; and other collateral
23 sources having relevant information related to the alleged
24 abuse or neglect. Information relevant to the assessment must
25 be asked for, and may include:

26 (A) The child's sex and age, prior reports of abuse or

1 neglect, information relating to developmental
2 functioning, credibility of the child's statement, and
3 whether the information provided under this paragraph (A)
4 is consistent with other information collected during the
5 course of the assessment or investigation.

6 (B) The alleged offender's age, a record check for
7 prior reports of abuse or neglect, and criminal charges
8 and convictions. The alleged offender may submit
9 supporting documentation relevant to the assessment.

10 (C) Collateral source information regarding the
11 alleged abuse or neglect and care of the child. Collateral
12 information includes, when relevant: (i) a medical
13 examination of the child; (ii) prior medical records
14 relating to the alleged maltreatment or care of the child
15 maintained by any facility, clinic, or health care
16 professional, and an interview with the treating
17 professionals; and (iii) interviews with the child's
18 caretakers, including the child's parent, guardian, foster
19 parent, child care provider, teachers, counselors, family
20 members, relatives, and other persons who may have
21 knowledge regarding the alleged maltreatment and the care
22 of the child.

23 (D) Information on the existence of domestic abuse and
24 violence in the home of the child, and substance abuse.

25 Nothing in this subsection (a-5) precludes the Department
26 from collecting other relevant information necessary to

1 conduct the assessment or investigation. Nothing in this
2 subsection (a-5) shall be construed to allow the name or
3 identity of a reporter to be disclosed in violation of the
4 protections afforded under Section 7.19 of this Act.

5 After conducting the family assessment, the Department
6 shall determine whether services are needed to address the
7 safety of the child and other family members and the risk of
8 subsequent abuse or neglect.

9 Upon completion of the family assessment, if the
10 Department concludes that no services shall be offered, then
11 the case shall be closed. If the Department concludes that
12 services shall be offered, the Department shall develop a
13 family preservation plan and offer or refer services to the
14 family.

15 At any time during a family assessment, if the Department
16 believes there is any reason to stop the assessment and
17 conduct an investigation based on the information discovered,
18 the Department shall do so.

19 The procedures available to the Department in conducting
20 investigations under this Act shall be followed as appropriate
21 during a family assessment.

22 If the Department implements a differential response
23 program authorized under this subsection (a-5), the Department
24 shall arrange for an independent evaluation of the program for
25 at least the first 3 years of implementation to determine
26 whether it is meeting the goals in accordance with Section 2 of

1 this Act.

2 The Department may adopt administrative rules necessary
3 for the execution of this Section, in accordance with Section
4 4 of the Children and Family Services Act.

5 The Department shall submit a report to the General
6 Assembly by January 15, 2018 on the implementation progress
7 and recommendations for additional needed legislative changes.

8 (b) (1) The following procedures shall be followed in the
9 investigation of all reports of suspected abuse or neglect of
10 a child, except as provided in subsection (c) of this Section.

11 (2) If, during a family assessment authorized by
12 subsection (a-5) or an investigation, it appears that the
13 immediate safety or well-being of a child is endangered, that
14 the family may flee or the child disappear, or that the facts
15 otherwise so warrant, the Child Protective Service Unit shall
16 commence an investigation immediately, regardless of the time
17 of day or night. All other investigations shall be commenced
18 within 24 hours of receipt of the report. Upon receipt of a
19 report, the Child Protective Service Unit shall conduct a
20 family assessment authorized by subsection (a-5) or begin an
21 initial investigation and make an initial determination
22 whether the report is a good faith indication of alleged child
23 abuse or neglect.

24 (3) Based on an initial investigation, if the Unit
25 determines the report is a good faith indication of alleged
26 child abuse or neglect, then a formal investigation shall

1 commence and, pursuant to Section 7.12 of this Act, may or may
2 not result in an indicated report. The formal investigation
3 shall include: direct contact with the subject or subjects of
4 the report as soon as possible after the report is received; an
5 evaluation of the environment of the child named in the report
6 and any other children in the same environment; a
7 determination of the risk to such children if they continue to
8 remain in the existing environments, as well as a
9 determination of the nature, extent and cause of any condition
10 enumerated in such report; the name, age and condition of
11 other children in the environment; and an evaluation as to
12 whether there would be an immediate and urgent necessity to
13 remove the child from the environment if appropriate family
14 preservation services were provided. After seeing to the
15 safety of the child or children, the Department shall
16 forthwith notify the subjects of the report in writing, of the
17 existence of the report and their rights existing under this
18 Act in regard to amendment or expungement. To fulfill the
19 requirements of this Section, the Child Protective Service
20 Unit shall have the capability of providing or arranging for
21 comprehensive emergency services to children and families at
22 all times of the day or night.

23 (4) If (i) at the conclusion of the Unit's initial
24 investigation of a report, the Unit determines the report to
25 be a good faith indication of alleged child abuse or neglect
26 that warrants a formal investigation by the Unit, the

1 Department, any law enforcement agency or any other
2 responsible agency and (ii) the person who is alleged to have
3 caused the abuse or neglect is employed or otherwise engaged
4 in an activity resulting in frequent contact with children and
5 the alleged abuse or neglect are in the course of such
6 employment or activity, then the Department shall, except in
7 investigations where the Director determines that such
8 notification would be detrimental to the Department's
9 investigation, inform the appropriate supervisor or
10 administrator of that employment or activity that the Unit has
11 commenced a formal investigation pursuant to this Act, which
12 may or may not result in an indicated report. The Department
13 shall also notify the person being investigated, unless the
14 Director determines that such notification would be
15 detrimental to the Department's investigation.

16 (c) In an investigation of a report of suspected abuse or
17 neglect of a child by a school employee at a school or on
18 school grounds, the Department shall make reasonable efforts
19 to follow the following procedures:

20 (1) Investigations involving teachers shall not, to
21 the extent possible, be conducted when the teacher is
22 scheduled to conduct classes. Investigations involving
23 other school employees shall be conducted so as to
24 minimize disruption of the school day. The school employee
25 accused of child abuse or neglect may have his superior,
26 his association or union representative and his attorney

1 present at any interview or meeting at which the teacher
2 or administrator is present. The accused school employee
3 shall be informed by a representative of the Department,
4 at any interview or meeting, of the accused school
5 employee's due process rights and of the steps in the
6 investigation process. These due process rights shall also
7 include the right of the school employee to present
8 countervailing evidence regarding the accusations. In an
9 investigation in which the alleged perpetrator of abuse or
10 neglect is a school employee, including, but not limited
11 to, a school teacher or administrator, and the
12 recommendation is to determine the report to be indicated,
13 in addition to other procedures as set forth and defined
14 in Department rules and procedures, the employee's due
15 process rights shall also include: (i) the right to a copy
16 of the investigation summary; (ii) the right to review the
17 specific allegations which gave rise to the investigation;
18 and (iii) the right to an administrator's teleconference
19 which shall be convened to provide the school employee
20 with the opportunity to present documentary evidence or
21 other information that supports his or her position and to
22 provide information before a final finding is entered.

23 (2) If a report of neglect or abuse of a child by a
24 teacher or administrator does not involve allegations of
25 sexual abuse or extreme physical abuse, the Child
26 Protective Service Unit shall make reasonable efforts to

1 conduct the initial investigation in coordination with the
2 employee's supervisor.

3 If the Unit determines that the report is a good faith
4 indication of potential child abuse or neglect, it shall
5 then commence a formal investigation under paragraph (3)
6 of subsection (b) of this Section.

7 (3) If a report of neglect or abuse of a child by a
8 teacher or administrator involves an allegation of sexual
9 abuse or extreme physical abuse, the Child Protective Unit
10 shall commence an investigation under paragraph (2) of
11 subsection (b) of this Section.

12 (c-5) In any instance in which a report is made or caused
13 to made by a school district employee involving the conduct of
14 a person employed by the school district, at the time the
15 report was made, as required under Section 4 of this Act, the
16 Child Protective Service Unit shall send a copy of its final
17 finding report to the general superintendent of that school
18 district.

19 (c-10) The Department may recommend that a school district
20 remove a school employee who is the subject of an
21 investigation from his or her employment position pending the
22 outcome of the investigation; however, all employment
23 decisions regarding school personnel shall be the sole
24 responsibility of the school district or employer. The
25 Department may not require a school district to remove a
26 school employee from his or her employment position or limit

1 the school employee's duties pending the outcome of an
2 investigation.

3 (d) If the Department has contact with an employer, or
4 with a religious institution or religious official having
5 supervisory or hierarchical authority over a member of the
6 clergy accused of the abuse of a child, in the course of its
7 investigation, the Department shall notify the employer or the
8 religious institution or religious official, in writing, when
9 a report is unfounded so that any record of the investigation
10 can be expunged from the employee's or member of the clergy's
11 personnel or other records. The Department shall also notify
12 the employee or the member of the clergy, in writing, that
13 notification has been sent to the employer or to the
14 appropriate religious institution or religious official
15 informing the employer or religious institution or religious
16 official that the Department's investigation has resulted in
17 an unfounded report.

18 (d-1) Whenever a report alleges that a child was abused or
19 neglected while receiving care in a hospital, including a
20 freestanding psychiatric hospital licensed by the Department
21 of Public Health, the Department shall send a copy of its final
22 finding to the Director of Public Health and the Director of
23 Healthcare and Family Services.

24 (d-2) In any investigation conducted in accordance with
25 this Act during which the Department consults with and relies
26 upon a medically trained professional as to whether abuse or

1 neglect is considered likely, to a reasonable degree of
2 medical certainty, the following protections shall be provided
3 to any subject of the investigation:

4 (A) No child or family member of a child who is the
5 subject of an investigation shall be required to submit to
6 additional medical tests, for investigation purposes only,
7 during the investigation. The risks associated with any
8 recommended test must be fully disclosed to the child's
9 custodial parent or guardian during the investigation.
10 Nothing in this paragraph shall be read to preclude those
11 medical tests that are medically necessary for the child's
12 treatment.

13 (B) If a consulting medical professional is employed,
14 in whole or in part, by the Department or receives
15 referrals in the course of an investigation pursuant to
16 any contract, memorandum of understanding, or direct
17 request by an investigator, such individual must identify
18 himself or herself as a forensic consultant, rather than
19 as a member of the child's treatment team, whenever the
20 individual has direct contact with the child or the family
21 of the child. The individual must also provide the child's
22 guardian with accurate information about the medical
23 specialties that the individual holds.

24 (C) The subject of the investigation shall be afforded
25 the opportunity to identify all medical professionals who
26 have examined or treated the child during the previous

1 12-month period prior to the hotline call and, with the
2 subject's consent, such medical professionals shall be
3 afforded the opportunity to submit information for
4 consideration by the Department prior to the conclusion of
5 the investigation.

6 (D) The subject of the investigation shall be afforded
7 the reasonable opportunity to submit a second medical
8 opinion to the Department or to request that the
9 Department allow time for the subject to obtain and submit
10 second independent opinions from medical professionals. A
11 request for a second medical opinion shall be considered
12 good cause to toll deadlines for completion of an
13 investigation.

14 (E) Except if there are exigent circumstances, the
15 subject of the investigation shall be provided the
16 identity, credentials, and opinions of other professionals
17 the consulted medical professional relies upon in
18 rendering an opinion as to the likelihood of abuse or
19 neglect, and the written opinion of such person shall be
20 provided, upon the conclusion of the investigation (with
21 due allowance for redactions as otherwise provided under
22 this Act).

23 (F) The Department shall annually prepare and make
24 available on the Department's Reports and Statistics
25 webpage a report on the number of children referred to a
26 consulting medical professional for forensic opinion. The

1 first report must be posted by March 31, 2024. The report
2 shall contain the following information:

3 (i) Total number of abuse or neglect cases that
4 were substantiated by the court.

5 (ii) Total number of abuse or neglect cases that
6 the Department determined were unfounded.

7 (iii) Total number of abuse or neglect cases that
8 the Department determined were indicated, but were not
9 sent to the court.

10 (I) Data on the subset of those indicated
11 cases that were appealed and the outcomes of those
12 appeals.

13 (II) Data on the subset of those cases that
14 the Department determined were indicated but with
15 an unknown perpetrator.

16 (iv) Compile the information collected under items
17 (i) through (iii) by individual provider.

18 (v) Compile the information collected under items
19 (i) through (iii) by medical diagnosis.

20 (vi) Compile the information collected under items
21 (i) through (iii) by county.

22 (vii) Compile the information collected under
23 items (i) through (iii) by race.

24 (viii) Compile the information collected under
25 items (i) through (iii) by gender (of the child).

26 (ix) Compile the information collected under items

1 (i) through (iii) by children with safety plans and
2 children put in protective custody.

3 (e) Upon request by the Department, the Illinois State
4 Police and law enforcement agencies are authorized to provide
5 criminal history record information as defined in the Illinois
6 Uniform Conviction Information Act and information maintained
7 in the adjudicatory and dispositional record system as defined
8 in Section 2605-355 of the Illinois State Police Law to
9 properly designated employees of the Department of Children
10 and Family Services if the Department determines the
11 information is necessary to perform its duties under the
12 Abused and Neglected Child Reporting Act, the Child Care Act
13 of 1969, and the Children and Family Services Act. The request
14 shall be in the form and manner required by the Illinois State
15 Police. Any information obtained by the Department of Children
16 and Family Services under this Section is confidential and may
17 not be transmitted outside the Department of Children and
18 Family Services other than to a court of competent
19 jurisdiction or unless otherwise authorized by law. Any
20 employee of the Department of Children and Family Services who
21 transmits confidential information in violation of this
22 Section or causes the information to be transmitted in
23 violation of this Section is guilty of a Class A misdemeanor
24 unless the transmittal of the information is authorized by
25 this Section or otherwise authorized by law.

26 (f) For purposes of this Section, "child abuse or neglect"

1 includes abuse or neglect of an adult resident as defined in
2 this Act.

3 (Source: P.A. 101-43, eff. 1-1-20; 102-538, eff. 8-20-21.)