

1 AMENDMENT TO SENATE BILL 1035

2 AMENDMENT NO. _____. Amend Senate Bill 1035, AS AMENDED,
3 as follows:

4 by replacing the title with the following:

5 "AN ACT in relation to child abuse."; and

6 by replacing everything after the enacting clause with the
7 following:

8 "Section 5. The Abused and Neglected Child Reporting Act
9 is amended by changing Section 4 as follows:

10 (325 ILCS 5/4) (from Ch. 23, par. 2054)

11 Sec. 4. Persons required to report; privileged
12 communications; transmitting false report. Any physician,
13 resident, intern, hospital, hospital administrator and
14 personnel engaged in examination, care and treatment of
15 persons, surgeon, dentist, dentist hygienist, osteopath,
16 chiropractor, podiatrist, physician assistant, substance
17 abuse treatment personnel, ~~Christian--Science--practitioner~~,
18 funeral home director or employee, coroner, medical examiner,
19 emergency medical technician, acupuncturist, crisis line or
20 hotline personnel, school personnel, educational advocate
21 assigned to a child pursuant to the School Code, truant

1 officers, social worker, social services administrator,
2 domestic violence program personnel, registered nurse,
3 licensed practical nurse, respiratory care practitioner,
4 advanced practice nurse, home health aide, director or staff
5 assistant of a nursery school or a child day care center,
6 recreational program or facility personnel, law enforcement
7 officer, registered psychologist and assistants working
8 under the direct supervision of a psychologist, psychiatrist,
9 or field personnel of the Illinois Department of Public Aid,
10 Public Health, Human Services (acting as successor to the
11 Department of Mental Health and Developmental Disabilities,
12 Rehabilitation Services, or Public Aid), Corrections, Human
13 Rights, or Children and Family Services, supervisor and
14 administrator of general assistance under the Illinois Public
15 Aid Code, probation officer, or any other foster parent,
16 homemaker or child care worker having reasonable cause to
17 believe a child known to them in their professional or
18 official capacity may be an abused child or a neglected child
19 shall immediately report or cause a report to be made to the
20 Department.

21 Any member of the clergy having reasonable cause to
22 believe that a child known to that member of the clergy in
23 his or her professional capacity may be an abused child as
24 defined in item (c) of the definition of "abused child" in
25 Section 3 of this Act shall immediately report or cause a
26 report to be made to the Department.

27 Whenever such person is required to report under this Act
28 in his capacity as a member of the staff of a medical or
29 other public or private institution, school, facility or
30 agency, or as a member of the clergy, he shall make report
31 immediately to the Department in accordance with the
32 provisions of this Act and may also notify the person in
33 charge of such institution, school, facility or agency, or
34 church, synagogue, temple, mosque, or other religious

1 institution, or his designated agent that such report has
2 been made. Under no circumstances shall any person in charge
3 of such institution, school, facility or agency, or church,
4 synagogue, temple, mosque, or other religious institution, or
5 his designated agent to whom such notification has been made,
6 exercise any control, restraint, modification or other change
7 in the report or the forwarding of such report to the
8 Department.

9 The privileged quality of communication between any
10 professional person required to report and his patient or
11 client shall not apply to situations involving abused or
12 neglected children and shall not constitute grounds for
13 failure to report as required by this Act.

14 A member of the clergy may claim the privilege under
15 Section 8-803 of the Code of Civil Procedure.

16 In addition to the above persons required to report
17 suspected cases of abused or neglected children, any other
18 person may make a report if such person has reasonable cause
19 to believe a child may be an abused child or a neglected
20 child.

21 Any person who enters into employment on and after July
22 1, 1986 and is mandated by virtue of that employment to
23 report under this Act, shall sign a statement on a form
24 prescribed by the Department, to the effect that the employee
25 has knowledge and understanding of the reporting requirements
26 of this Act. The statement shall be signed prior to
27 commencement of the employment. The signed statement shall
28 be retained by the employer. The cost of printing,
29 distribution, and filing of the statement shall be borne by
30 the employer.

31 The Department shall provide copies of this Act, upon
32 request, to all employers employing persons who shall be
33 required under the provisions of this Section to report under
34 this Act.

1 Any person who knowingly transmits a false report to the
2 Department commits the offense of disorderly conduct under
3 subsection (a)(7) of Section 26-1 of the "Criminal Code of
4 1961". Any person who violates this provision a second or
5 subsequent time shall be guilty of a Class 4 felony.

6 Any person who knowingly and willfully violates any
7 provision of this Section other than a second or subsequent
8 violation of transmitting a false report as described in the
9 preceding paragraph, is guilty of a Class A misdemeanor for a
10 first violation and a Class 4 felony for a second or
11 subsequent violation.

12 A child whose parent, guardian or custodian in good faith
13 selects and depends upon spiritual means through prayer
14 alone for the treatment or cure of disease or remedial care
15 may be considered neglected or abused, but not for the sole
16 reason that his parent, guardian or custodian accepts and
17 practices such beliefs.

18 A child shall not be considered neglected or abused
19 solely because the child is not attending school in
20 accordance with the requirements of Article 26 of the School
21 Code, as amended.

22 (Source: P.A. 91-259, eff. 1-1-00; 91-516, eff. 8-13-99;
23 92-16, eff. 6-28-01; 92-801, eff. 8-16-02.)

24 Section 10. The Criminal Code of 1961 is amended by
25 changing Section 3-6 as follows:

26 (720 ILCS 5/3-6) (from Ch. 38, par. 3-6)

27 Sec. 3-6. Extended limitations. The period within which
28 a prosecution must be commenced under the provisions of
29 Section 3-5 or other applicable statute is extended under the
30 following conditions:

31 (a) A prosecution for theft involving a breach of a
32 fiduciary obligation to the aggrieved person may be commenced

1 as follows:

2 (1) If the aggrieved person is a minor or a person
3 under legal disability, then during the minority or legal
4 disability or within one year after the termination
5 thereof.

6 (2) In any other instance, within one year after
7 the discovery of the offense by an aggrieved person, or
8 by a person who has legal capacity to represent an
9 aggrieved person or has a legal duty to report the
10 offense, and is not himself or herself a party to the
11 offense; or in the absence of such discovery, within one
12 year after the proper prosecuting officer becomes aware
13 of the offense. However, in no such case is the period of
14 limitation so extended more than 3 years beyond the
15 expiration of the period otherwise applicable.

16 (b) A prosecution for any offense based upon misconduct
17 in office by a public officer or employee may be commenced
18 within one year after discovery of the offense by a person
19 having a legal duty to report such offense, or in the absence
20 of such discovery, within one year after the proper
21 prosecuting officer becomes aware of the offense. However, in
22 no such case is the period of limitation so extended more
23 than 3 years beyond the expiration of the period otherwise
24 applicable.

25 (c) Except as otherwise provided in subsection (a) of
26 Section 3-5 of this Code and subdivision (i) or (j) of this
27 Section, a prosecution for any offense involving sexual
28 conduct or sexual penetration, as defined in Section 12-12 of
29 this Code, where the victim and defendant are family members,
30 as defined in Section 12-12 of this Code, may be commenced
31 within one year of the victim attaining the age of 18 years.

32 (d) A prosecution for child pornography, indecent
33 solicitation of a child, soliciting for a juvenile
34 prostitute, juvenile pimping or exploitation of a child may

1 be commenced within one year of the victim attaining the age
2 of 18 years. However, in no such case shall the time period
3 for prosecution expire sooner than 3 years after the
4 commission of the offense. When the victim is under 18 years
5 of age, a prosecution for criminal sexual abuse may be
6 commenced within one year of the victim attaining the age of
7 18 years. However, in no such case shall the time period for
8 prosecution expire sooner than 3 years after the commission
9 of the offense.

10 (e) Except as otherwise provided in subdivision (j), a
11 prosecution for any offense involving sexual conduct or
12 sexual penetration, as defined in Section 12-12 of this Code,
13 where the defendant was within a professional or fiduciary
14 relationship or a purported professional or fiduciary
15 relationship with the victim at the time of the commission of
16 the offense may be commenced within one year after the
17 discovery of the offense by the victim.

18 (f) A prosecution for any offense set forth in Section
19 44 of the "Environmental Protection Act", approved June 29,
20 1970, as amended, may be commenced within 5 years after the
21 discovery of such an offense by a person or agency having the
22 legal duty to report the offense or in the absence of such
23 discovery, within 5 years after the proper prosecuting
24 officer becomes aware of the offense.

25 (g) (Blank).

26 (h) (Blank).

27 (i) Except as otherwise provided in subdivision (j), a
28 prosecution for criminal sexual assault, aggravated criminal
29 sexual assault, or aggravated criminal sexual abuse may be
30 commenced within 10 years of the commission of the offense if
31 the victim reported the offense to law enforcement
32 authorities within 2 years after the commission of the
33 offense.

34 Nothing in this subdivision (i) shall be construed to

1 shorten a period within which a prosecution must be commenced
2 under any other provision of this Section.

3 (j) When the victim is under 18 years of age at the time
4 of the offense, a prosecution for criminal sexual assault,
5 aggravated criminal sexual assault, predatory criminal sexual
6 assault of a child, or aggravated criminal sexual abuse or a
7 prosecution for failure of a person who is required to report
8 an alleged or suspected commission of any of these offenses
9 under the Abused and Neglected Child Reporting Act may be
10 commenced within 20 years ~~10-years~~ after the child victim
11 attains 18 years of age.

12 Nothing in this subdivision (j) shall be construed to
13 shorten a period within which a prosecution must be commenced
14 under any other provision of this Section.

15 (Source: P.A. 91-475, eff. 1-1-00; 91-801, eff. 6-13-00;
16 92-752, eff. 8-2-02; 92-801, eff. 8-16-02; revised 9-11-02.)

17 Section 15. The Code of Civil Procedure is amended by
18 changing Section 13-202.2 as follows:

19 (735 ILCS 5/13-202.2) (from Ch. 110, par. 13-202.2)
20 Sec. 13-202.2. Childhood sexual abuse.

21 (a) In this Section:

22 "Childhood sexual abuse" means an act of sexual abuse
23 that occurs when the person abused is under 18 years of age.

24 "Sexual abuse" includes but is not limited to sexual
25 conduct and sexual penetration as defined in Section 12-12 of
26 the Criminal Code of 1961.

27 (b) An action for damages for personal injury based on
28 childhood sexual abuse must be commenced within 2 years of
29 the date the person abused discovers or through the use of
30 reasonable diligence should discover that the act of
31 childhood sexual abuse occurred and that the injury was
32 caused by the childhood sexual abuse. The fact that the

1 person abused discovers or through the use of reasonable
2 diligence should discover that the act of childhood sexual
3 abuse occurred is not, by itself, sufficient to start the
4 discovery period under this subsection (b). Knowledge of the
5 abuse does not constitute discovery of the injury or the
6 causal relationship between the injury and the abuse.
7 Knowledge that the injury was caused by the childhood sexual
8 abuse does not occur until the memory, knowledge,
9 understanding, acceptance, and volition of the person abused
10 have coalesced so as to enable the person abused to act.

11 (c) If the injury is caused by 2 or more acts of
12 childhood sexual abuse that are part of a continuing series
13 of acts of childhood sexual abuse by the same abuser, then
14 the discovery period under subsection (b) shall be computed
15 from the date the person abused discovers or through the use
16 of reasonable diligence should discover (i) that the last act
17 of childhood sexual abuse in the continuing series occurred
18 and (ii) that the injury was caused by any act of childhood
19 sexual abuse in the continuing series. The fact that the
20 person abused discovers or through the use of reasonable
21 diligence should discover that the last act of childhood
22 sexual abuse in the continuing series occurred is not, by
23 itself, sufficient to start the discovery period under
24 subsection (b). Knowledge of the abuse does not constitute
25 discovery of the injury or the causal relationship between
26 the injury and the abuse. Knowledge that the injury was
27 caused by the childhood sexual abuse does not occur until the
28 memory, knowledge, understanding, acceptance, and volition of
29 the person abused have coalesced so as to enable the person
30 abused to act.

31 (d) The limitation periods under subsection (b) do not
32 begin to run before the person abused attains the age of 18
33 years; and, if at the time the person abused attains the age
34 of 18 years he or she is under other legal disability, the

1 limitation periods under subsection (b) do not begin to run
2 until the removal of the disability.

3 (e) This Section applies to actions pending on the
4 effective date of this amendatory Act of 1990 as well as to
5 actions commenced on or after that date. The changes made by
6 this amendatory Act of 1993 shall apply only to actions
7 commenced on or after the effective date of this amendatory
8 Act of 1993. The changes made by this amendatory Act of the
9 93rd General Assembly shall apply only to actions commenced
10 on or after the effective date of this amendatory Act of the
11 93rd General Assembly.

12 (Source: P.A. 88-127.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law."