



Rep. Dan Brady

Filed: 5/16/2007

09500HB3170ham004

LRB095 06980 RAS 36372 a

1 AMENDMENT TO HOUSE BILL 3170

2 AMENDMENT NO. _____. Amend House Bill 3170 by replacing
3 everything after the enacting clause with the following:

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

6 (325 ILCS 5/4) (from Ch. 23, par. 2054)

7 Sec. 4. Persons required to report; privileged
8 communications; transmitting false report. Any physician,
9 resident, intern, hospital, hospital administrator and
10 personnel engaged in examination, care and treatment of
11 persons, surgeon, dentist, dentist hygienist, osteopath,
12 chiropractor, podiatrist, physician assistant, substance abuse
13 treatment personnel, funeral home director or employee,
14 coroner, medical examiner, emergency medical technician,
15 acupuncturist, crisis line or hotline personnel, school
16 personnel (including administrators and both certified and

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

24 Any member of the clergy having reasonable cause to believe
25 that a child known to that member of the clergy in his or her
26 professional capacity may be an abused child as defined in item

1 (c) of the definition of "abused child" in Section 3 of this
2 Act shall immediately report or cause a report to be made to
3 the Department.

4 If an allegation is raised to a school board member during
5 the course of an open or closed school board meeting that a
6 child who is enrolled in the school district of which he or she
7 is a board member is an abused child as defined in Section 3 of
8 this Act, the member shall direct or cause the school board to
9 direct the superintendent of the school district or other
10 equivalent school administrator to comply with the
11 requirements of this Act concerning the reporting of child
12 abuse. For purposes of this paragraph, a school board member is
13 granted the authority in his or her individual capacity to
14 direct the superintendent of the school district or other
15 equivalent school administrator to comply with the
16 requirements of this Act concerning the reporting of child
17 abuse.

18 Notwithstanding any other provision of this Act, if an
19 employee of a school district has made a report or caused a
20 report to be made to the Department under this Act involving
21 the conduct of a current or former employee of the school
22 district and a request is made by another school district for
23 the provision of information concerning the job performance or
24 qualifications of the current or former employee because he or
25 she is an applicant for employment with the requesting school
26 district, the school district to which the request is being

1 made must disclose to the requesting school district the fact
2 that an employee of the school district has made a report
3 involving the conduct of the applicant or caused a report to be
4 made to the Department, as required under this Act. Only the
5 fact that an employee of the school district has made a report
6 involving the conduct of the applicant or caused a report to be
7 made to the Department may be disclosed by the school district
8 to which the request for information concerning the applicant
9 is made, and this fact may be disclosed only in cases where the
10 employee has not been informed by the Department that the
11 allegations were unfounded. An employee of a school district
12 who is or has been the subject of a report made pursuant to
13 this Act during his or her employment with the school district
14 must be informed by that school district that if he or she
15 applies for employment with another school district, the former
16 school district, upon the request of the school district to
17 which the employee applies, shall notify that requesting school
18 district that the employee is or was the subject of such a
19 report.

20 Whenever such person is required to report under this Act
21 in his capacity as a member of the staff of a medical or other
22 public or private institution, school, facility or agency, or
23 as a member of the clergy, he shall make report immediately to
24 the Department in accordance with the provisions of this Act
25 and may also notify the person in charge of such institution,
26 school, facility or agency, or church, synagogue, temple,

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

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

1 employer. The cost of printing, distribution, and filing of the
2 statement shall be borne by the employer.

3 The Department shall provide copies of this Act, upon
4 request, to all employers employing persons who shall be
5 required under the provisions of this Section to report under
6 this Act.

7 Any person who knowingly transmits a false report to the
8 Department commits the offense of disorderly conduct under
9 subsection (a)(7) of Section 26-1 of the "Criminal Code of
10 1961". Any person who violates this provision a second or
11 subsequent time shall be guilty of a Class 3 felony.

12 Any person who knowingly and willfully violates any
13 provision of this Section other than a second or subsequent
14 violation of transmitting a false report as described in the
15 preceding paragraph, is guilty of a Class A misdemeanor for a
16 first violation and a Class 4 felony for a second or subsequent
17 violation; except that if the person acted as part of a plan or
18 scheme having as its object the prevention of discovery of an
19 abused or neglected child by lawful authorities for the purpose
20 of protecting or insulating any person or entity from arrest or
21 prosecution, the person is guilty of a Class 4 felony for a
22 first offense and a Class 3 felony for a second or subsequent
23 offense (regardless of whether the second or subsequent offense
24 involves any of the same facts or persons as the first or other
25 prior offense).

26 A child whose parent, guardian or custodian in good faith

1 selects and depends upon spiritual means through prayer alone
2 for the treatment or cure of disease or remedial care may be
3 considered neglected or abused, but not for the sole reason
4 that his parent, guardian or custodian accepts and practices
5 such beliefs.

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

9 (Source: P.A. 93-137, eff. 7-10-03; 93-356, eff. 7-24-03;
10 93-431, eff. 8-5-03; 93-1041, eff. 9-29-04; 94-888, eff.
11 6-20-06.)

12 (325 ILCS 5/9) (from Ch. 23, par. 2059)

13 Sec. 9. Any person, institution or agency, under this Act,
14 participating in good faith in the making of a report or
15 referral, or in the investigation of such a report or referral
16 or in the taking of photographs and x-rays or in the retaining
17 a child in temporary protective custody or in making a
18 disclosure of information concerning reports of child abuse and
19 neglect in compliance with Sections 4.2 and 11.1 of this Act or
20 Section 4, as it relates to disclosure by school personnel and
21 except in cases of wilful or wanton misconduct, shall have
22 immunity from any liability, civil, criminal or that otherwise
23 might result by reason of such actions. For the purpose of any
24 proceedings, civil or criminal, the good faith of any persons
25 required to report or refer, or permitted to report, cases of

1 suspected child abuse or neglect or permitted to refer
2 individuals under this Act or required to disclose information
3 concerning reports of child abuse and neglect in compliance
4 with Sections 4.2 and 11.1 of this Act, shall be presumed.

5 (Source: P.A. 90-15, eff. 6-13-97.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.".