



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB4252

by Rep. Dan Brady

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Abused and Neglected Child Reporting Act. Provides that if an employee of a school district has made a report or caused a report to be made to the Department of Children and Family Services under the Act involving the conduct of a current or former employee of the school district and a request is made by another school district for the provision of information concerning the job performance or qualifications of the current or former employee because he or she is an applicant for employment, the general superintendent of the school district to which the request is being made must disclose to the requesting school district the fact that an employee of the school district has made a report involving the conduct of the applicant or caused a report to be made to the Department, as required under the Act. Provides that only the fact that an employee of the school district has made a report involving the conduct of the applicant or caused a report to be made to the Department may be disclosed and that this fact may be disclosed only in cases where the school employee and the general superintendent have not been informed by the Department that the allegations were unfounded. Provides that an employee of a school district who is or has been the subject of a report during his or her employment with the school district must be informed by that school district that if he or she applies for employment with another school district, the general superintendent of the former school district, upon the request of the school district to which the employee applies, shall notify that requesting school district that the employee is or was the subject of such a report. Makes a related change concerning immunity. Effective immediately.

LRB095 14406 RAS 40309 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning children.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Abused and Neglected Child Reporting Act is  
5 amended by changing Sections 4, 7.4, 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  
17 non-certified school employees), educational advocate assigned  
18 to a child pursuant to the School Code, member of a school  
19 board or the Chicago Board of Education or the governing body  
20 of a private school (but only to the extent required in  
21 accordance with other provisions of this Section expressly  
22 concerning the duty of school board members to report suspected  
23 child abuse), truant officers, social worker, social services

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

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

1 the Department.

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

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

1 district has made a report involving the conduct of the  
2 applicant or caused a report to be made to the Department, as  
3 required under this Act. Only the fact that an employee of the  
4 school district has made a report involving the conduct of the  
5 applicant or caused a report to be made to the Department may  
6 be disclosed by the general superintendent of the school  
7 district to which the request for information concerning the  
8 applicant is made, and this fact may be disclosed only in cases  
9 where the employee and the general superintendent have not been  
10 informed by the Department that the allegations were unfounded.  
11 An employee of a school district who is or has been the subject  
12 of a report made pursuant to this Act during his or her  
13 employment with the school district must be informed by that  
14 school district that if he or she applies for employment with  
15 another school district, the general superintendent of the  
16 former school district, upon the request of the school district  
17 to which the employee applies, shall notify that requesting  
18 school district that the employee is or was the subject of such  
19 a 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. 94-888, eff. 6-20-06; 95-10, eff. 6-30-07;  
10 95-461, eff. 8-27-07; revised 11-15-07.)

11 (325 ILCS 5/7.4) (from Ch. 23, par. 2057.4)

12 Sec. 7.4. (a) The Department shall be capable of receiving  
13 reports of suspected child abuse or neglect 24 hours a day, 7  
14 days a week. Whenever the Department receives a report alleging  
15 that a child is a truant as defined in Section 26-2a of The  
16 School Code, as now or hereafter amended, the Department shall  
17 notify the superintendent of the school district in which the  
18 child resides and the appropriate superintendent of the  
19 educational service region. The notification to the  
20 appropriate officials by the Department shall not be considered  
21 an allegation of abuse or neglect under this Act.

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



1           (2) If it appears that the immediate safety or  
2 well-being of a child is endangered, that the family may  
3 flee or the child disappear, or that the facts otherwise so  
4 warrant, the Child Protective Service Unit shall commence  
5 an investigation immediately, regardless of the time of day  
6 or night. In all other cases, investigation shall be  
7 commenced within 24 hours of receipt of the report. Upon  
8 receipt of a report, the Child Protective Service Unit  
9 shall make an initial investigation and an initial  
10 determination whether the report is a good faith indication  
11 of alleged child abuse or neglect.

12           (3) If the Unit determines the report is a good faith  
13 indication of alleged child abuse or neglect, then a formal  
14 investigation shall commence and, pursuant to Section 7.12  
15 of this Act, may or may not result in an indicated report.  
16 The formal investigation shall include: direct contact  
17 with the subject or subjects of the report as soon as  
18 possible after the report is received; an evaluation of the  
19 environment of the child named in the report and any other  
20 children in the same environment; a determination of the  
21 risk to such children if they continue to remain in the  
22 existing environments, as well as a determination of the  
23 nature, extent and cause of any condition enumerated in  
24 such report; the name, age and condition of other children  
25 in the environment; and an evaluation as to whether there  
26 would be an immediate and urgent necessity to remove the

1 child from the environment if appropriate family  
2 preservation services were provided. After seeing to the  
3 safety of the child or children, the Department shall  
4 forthwith notify the subjects of the report in writing, of  
5 the existence of the report and their rights existing under  
6 this Act in regard to amendment or expungement. To fulfill  
7 the requirements of this Section, the Child Protective  
8 Service Unit shall have the capability of providing or  
9 arranging for comprehensive emergency services to children  
10 and families at all times of the day or night.

11 (4) If (i) at the conclusion of the Unit's initial  
12 investigation of a report, the Unit determines the report  
13 to be a good faith indication of alleged child abuse or  
14 neglect that warrants a formal investigation by the Unit,  
15 the Department, any law enforcement agency or any other  
16 responsible agency and (ii) the person who is alleged to  
17 have caused the abuse or neglect is employed or otherwise  
18 engaged in an activity resulting in frequent contact with  
19 children and the alleged abuse or neglect are in the course  
20 of such employment or activity, then the Department shall,  
21 except in investigations where the Director determines  
22 that such notification would be detrimental to the  
23 Department's investigation, inform the appropriate  
24 supervisor or administrator of that employment or activity  
25 that the Unit has commenced a formal investigation pursuant  
26 to this Act, which may or may not result in an indicated

1 report. The Department shall also notify the person being  
2 investigated, unless the Director determines that such  
3 notification would be detrimental to the Department's  
4 investigation.

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

9 (1) Investigations involving teachers shall not, to  
10 the extent possible, be conducted when the teacher is  
11 scheduled to conduct classes. Investigations involving  
12 other school employees shall be conducted so as to minimize  
13 disruption of the school day. The school employee accused  
14 of child abuse or neglect may have his superior, his  
15 association or union representative and his attorney  
16 present at any interview or meeting at which the teacher or  
17 administrator is present. The accused school employee  
18 shall be informed by a representative of the Department, at  
19 any interview or meeting, of the accused school employee's  
20 due process rights and of the steps in the investigation  
21 process. The information shall include, but need not  
22 necessarily be limited to the right, subject to the  
23 approval of the Department, of the school employee to  
24 confront the accuser, if the accuser is 14 years of age or  
25 older, or the right to review the specific allegations  
26 which gave rise to the investigation, and the right to

1 review all materials and evidence that have been submitted  
2 to the Department in support of the allegation. These due  
3 process rights shall also include the right of the school  
4 employee to present countervailing evidence regarding the  
5 accusations.

6 (2) If a report of neglect or abuse of a child by a  
7 teacher or administrator does not involve allegations of  
8 sexual abuse or extreme physical abuse, the Child  
9 Protective Service Unit shall make reasonable efforts to  
10 conduct the initial investigation in coordination with the  
11 employee's supervisor.

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

16 (3) If a report of neglect or abuse of a child by a  
17 teacher or administrator involves an allegation of sexual  
18 abuse or extreme physical abuse, the Child Protective Unit  
19 shall commence an investigation under paragraph (2) of  
20 subsection (b) of this Section.

21 (c-5) In any instance in which a report is made or caused  
22 to made by a school district employee involving the conduct of  
23 a person employed by the school district, at the time the  
24 report was made, as required under Section 4 of this Act, the  
25 Child Protective Service Unit shall send a copy of its final  
26 finding report to the general superintendent of that school

1 district.

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

17 (e) Upon request by the Department, the Department of State  
18 Police and law enforcement agencies are authorized to provide  
19 criminal history record information as defined in the Illinois  
20 Uniform Conviction Information Act and information maintained  
21 in the adjudicatory and dispositional record system as defined  
22 in Section 2605-355 of the Department of State Police Law (20  
23 ILCS 2605/2605-355) to properly designated employees of the  
24 Department of Children and Family Services if the Department  
25 determines the information is necessary to perform its duties  
26 under the Abused and Neglected Child Reporting Act, the Child

1 Care Act of 1969, and the Children and Family Services Act. The  
2 request shall be in the form and manner required by the  
3 Department of State Police. Any information obtained by the  
4 Department of Children and Family Services under this Section  
5 is confidential and may not be transmitted outside the  
6 Department of Children and Family Services other than to a  
7 court of competent jurisdiction or unless otherwise authorized  
8 by law. Any employee of the Department of Children and Family  
9 Services who transmits confidential information in violation  
10 of this Section or causes the information to be transmitted in  
11 violation of this Section is guilty of a Class A misdemeanor  
12 unless the transmittal of the information is authorized by this  
13 Section or otherwise authorized by law.

14 (Source: P.A. 91-239, eff. 1-1-00; 92-801, eff. 8-16-02.)

15 (325 ILCS 5/9) (from Ch. 23, par. 2059)

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

1 otherwise might result by reason of such actions. For the  
2 purpose of any proceedings, civil or criminal, the good faith  
3 of any persons required to report or refer, or permitted to  
4 report, cases of suspected child abuse or neglect or permitted  
5 to refer individuals under this Act or required to disclose  
6 information concerning reports of child abuse and neglect in  
7 compliance with Sections 4.2 and 11.1 of this Act, shall be  
8 presumed.

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

10 Section 99. Effective date. This Act takes effect upon  
11 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 325 ILCS 5/4 from Ch. 23, par. 2054

4 325 ILCS 5/7.4 from Ch. 23, par. 2057.4

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