

**SB3444**



**96TH GENERAL ASSEMBLY**

**State of Illinois**

**2009 and 2010**

**SB3444**

Introduced 2/10/2010, by Sen. Gary Forby

**SYNOPSIS AS INTRODUCED:**

325 ILCS 5/4

from Ch. 23, par. 2054

Amends the Abused and Neglected Child Reporting Act. Makes a technical change in a Section concerning persons required to report to the Department of Children and Family Services suspected cases of child abuse or child neglect.

LRB096 20599 KTG 36299 b

**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 Section 4 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 ~~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, animal control  
17 officer or Illinois Department of Agriculture Bureau of Animal  
18 Health and Welfare field investigator, or any other foster  
19 parent, homemaker or child care worker having reasonable cause  
20 to believe a child known to them in their professional or  
21 official capacity may be an abused child or a neglected child  
22 shall immediately report or cause a report to be made to the  
23 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 general superintendent of the school district to

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

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

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

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

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

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

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

1 The statement shall be signed prior to commencement of the  
2 employment. The signed statement shall be retained by the  
3 employer. The cost of printing, distribution, and filing of the  
4 statement shall be borne by the employer.

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

9 Any person who knowingly transmits a false report to the  
10 Department commits the offense of disorderly conduct under  
11 subsection (a)(7) of Section 26-1 of the "Criminal Code of  
12 1961". Any person who violates this provision a second or  
13 subsequent time shall be guilty of a Class 3 felony.

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

1 prior offense).

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

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

11 Nothing in this Act prohibits a mandated reporter who  
12 reasonably believes that an animal is being abused or neglected  
13 in violation of the Humane Care for Animals Act from reporting  
14 animal abuse or neglect to the Department of Agriculture's  
15 Bureau of Animal Health and Welfare.

16 A home rule unit may not regulate the reporting of child  
17 abuse or neglect in a manner inconsistent with the provisions  
18 of this Section. This Section is a limitation under subsection  
19 (i) of Section 6 of Article VII of the Illinois Constitution on  
20 the concurrent exercise by home rule units of powers and  
21 functions exercised by the State.

22 (Source: P.A. 95-10, eff. 6-30-07; 95-461, eff. 8-27-07;  
23 95-876, eff. 8-21-08; 95-908, eff. 8-26-08; 96-494, eff.  
24 8-14-09.)