



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3480

Introduced 2/24/2011, by Rep. Robyn Gabel

SYNOPSIS AS INTRODUCED:

325 ILCS 5/3

from Ch. 23, par. 2053

325 ILCS 5/7.5a new

Amends the Abused and Neglected Child Reporting Act. Provides that certain interviews of a child who is alleged to be an abused child may not be conducted unless the interview is videotaped and audiotaped by the Department of Children and Family Services. Requires that the Department preserve those videotapes and audiotapes and other materials until all judgments in legal proceedings relating to the victim-sensitive interview are final and all direct and habeas corpus appeals are exhausted or such legal proceedings are barred by law. Provides for access to copies of the preserved materials by a party to a proceeding relating to the materials. Effective immediately.

LRB097 07827 KTG 47941 b

FISCAL NOTE ACT
MAY APPLY

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 3 and by adding Section 7.5a as
6 follows:

7 (325 ILCS 5/3) (from Ch. 23, par. 2053)

8 Sec. 3. As used in this Act unless the context otherwise
9 requires:

10 "Adult resident" means any person between 18 and 22 years
11 of age who resides in any facility licensed by the Department
12 under the Child Care Act of 1969. For purposes of this Act, the
13 criteria set forth in the definitions of "abused child" and
14 "neglected child" shall be used in determining whether an adult
15 resident is abused or neglected.

16 "Child" means any person under the age of 18 years, unless
17 legally emancipated by reason of marriage, ~~or~~ entry into a
18 branch of the United States armed services, or a court order
19 entered under the Emancipation of Minors Act.

20 "Department" means Department of Children and Family
21 Services.

22 "Local law enforcement agency" means the police of a city,
23 town, village or other incorporated area or the sheriff of an

1 unincorporated area or any sworn officer of the Illinois
2 Department of State Police.

3 "Abused child" means a child whose parent or immediate
4 family member, or any person responsible for the child's
5 welfare, or any individual residing in the same home as the
6 child, or a paramour of the child's parent:

7 (a) inflicts, causes to be inflicted, or allows to be
8 inflicted upon such child physical injury, by other than
9 accidental means, which causes death, disfigurement,
10 impairment of physical or emotional health, or loss or
11 impairment of any bodily function;

12 (b) creates a substantial risk of physical injury to
13 such child by other than accidental means which would be
14 likely to cause death, disfigurement, impairment of
15 physical or emotional health, or loss or impairment of any
16 bodily function;

17 (c) commits or allows to be committed any sex offense
18 against such child, as such sex offenses are defined in the
19 Criminal Code of 1961, as amended, or in the Wrongs to
20 Children Act, and extending those definitions of sex
21 offenses to include children under 18 years of age;

22 (d) commits or allows to be committed an act or acts of
23 torture upon such child;

24 (e) inflicts excessive corporal punishment;

25 (f) commits or allows to be committed the offense of
26 female genital mutilation, as defined in Section 12-34 of

1 the Criminal Code of 1961, against the child; ~~or~~

2 (g) causes to be sold, transferred, distributed, or
3 given to such child under 18 years of age, a controlled
4 substance as defined in Section 102 of the Illinois
5 Controlled Substances Act in violation of Article IV of the
6 Illinois Controlled Substances Act or in violation of the
7 Methamphetamine Control and Community Protection Act,
8 except for controlled substances that are prescribed in
9 accordance with Article III of the Illinois Controlled
10 Substances Act and are dispensed to such child in a manner
11 that substantially complies with the prescription; or-

12 (h) commits or allows to be committed the offense of
13 involuntary servitude, involuntary sexual servitude of a
14 minor, or trafficking in persons for forced labor or
15 services as defined in Section 10-9 of the Criminal Code of
16 1961 against the child.

17 A child shall not be considered abused for the sole reason
18 that the child has been relinquished in accordance with the
19 Abandoned Newborn Infant Protection Act.

20 "Neglected child" means any child who is not receiving the
21 proper or necessary nourishment or medically indicated
22 treatment including food or care not provided solely on the
23 basis of the present or anticipated mental or physical
24 impairment as determined by a physician acting alone or in
25 consultation with other physicians or otherwise is not
26 receiving the proper or necessary support or medical or other

1 remedial care recognized under State law as necessary for a
2 child's well-being, or other care necessary for his or her
3 well-being, including adequate food, clothing and shelter; or
4 who is abandoned by his or her parents or other person
5 responsible for the child's welfare without a proper plan of
6 care; or who has been provided with interim crisis intervention
7 services under Section 3-5 of the Juvenile Court Act of 1987
8 and whose parent, guardian, or custodian refuses to permit the
9 child to return home and no other living arrangement agreeable
10 to the parent, guardian, or custodian can be made, and the
11 parent, guardian, or custodian has not made any other
12 appropriate living arrangement for the child; or who is a
13 newborn infant whose blood, urine, or meconium contains any
14 amount of a controlled substance as defined in subsection (f)
15 of Section 102 of the Illinois Controlled Substances Act or a
16 metabolite thereof, with the exception of a controlled
17 substance or metabolite thereof whose presence in the newborn
18 infant is the result of medical treatment administered to the
19 mother or the newborn infant. A child shall not be considered
20 neglected for the sole reason that the child's parent or other
21 person responsible for his or her welfare has left the child in
22 the care of an adult relative for any period of time. A child
23 shall not be considered neglected for the sole reason that the
24 child has been relinquished in accordance with the Abandoned
25 Newborn Infant Protection Act. A child shall not be considered
26 neglected or abused for the sole reason that such child's

1 parent or other person responsible for his or her welfare
2 depends upon spiritual means through prayer alone for the
3 treatment or cure of disease or remedial care as provided under
4 Section 4 of this Act. A child shall not be considered
5 neglected or abused solely because the child is not attending
6 school in accordance with the requirements of Article 26 of The
7 School Code, as amended.

8 "Child Protective Service Unit" means certain specialized
9 State employees of the Department assigned by the Director to
10 perform the duties and responsibilities as provided under
11 Section 7.2 of this Act.

12 "Person responsible for the child's welfare" means the
13 child's parent; guardian; foster parent; relative caregiver;
14 any person responsible for the child's welfare in a public or
15 private residential agency or institution; any person
16 responsible for the child's welfare within a public or private
17 profit or not for profit child care facility; or any other
18 person responsible for the child's welfare at the time of the
19 alleged abuse or neglect, or any person who came to know the
20 child through an official capacity or position of trust,
21 including but not limited to health care professionals,
22 educational personnel, recreational supervisors, members of
23 the clergy, and volunteers or support personnel in any setting
24 where children may be subject to abuse or neglect.

25 "Temporary protective custody" means custody within a
26 hospital or other medical facility or a place previously

1 designated for such custody by the Department, subject to
2 review by the Court, including a licensed foster home, group
3 home, or other institution; but such place shall not be a jail
4 or other place for the detention of criminal or juvenile
5 offenders.

6 "An unfounded report" means any report made under this Act
7 for which it is determined after an investigation that no
8 credible evidence of abuse or neglect exists.

9 "An indicated report" means a report made under this Act if
10 an investigation determines that credible evidence of the
11 alleged abuse or neglect exists.

12 "An undetermined report" means any report made under this
13 Act in which it was not possible to initiate or complete an
14 investigation on the basis of information provided to the
15 Department.

16 "Victim-sensitive interview" means an interview of a child
17 who is alleged to be an abused child by a multidisciplinary
18 team that may include representatives from the Department, law
19 enforcement, child protection, criminal prosecution, victim
20 advocacy, and the medical and mental health fields.

21 "Subject of report" means any child reported to the central
22 register of child abuse and neglect established under Section
23 7.7 of this Act as an alleged victim of child abuse or neglect
24 and the parent or guardian of the alleged victim or other
25 person responsible for the alleged victim's welfare who is
26 named in the report or added to the report as an alleged

1 perpetrator of child abuse or neglect.

2 "Perpetrator" means a person who, as a result of
3 investigation, has been determined by the Department to have
4 caused child abuse or neglect.

5 "Member of the clergy" means a clergyman or practitioner of
6 any religious denomination accredited by the religious body to
7 which he or she belongs.

8 (Source: P.A. 95-443, eff. 1-1-08; 96-1196, eff. 1-1-11;
9 96-1446, eff. 8-20-10; 96-1464, eff. 8-20-10; revised
10 9-16-10.)

11 (325 ILCS 5/7.5a new)

12 Sec. 7.5a. Victim-sensitive interviews.

13 (a) A victim-sensitive interview of a child who is alleged
14 to be an abused child may not be conducted unless the interview
15 is videotaped and audiotaped by the Department. The videotaping
16 and audiotaping of the victim-sensitive interview must begin at
17 the start of the interview and continue without interruption
18 until the interview is concluded.

19 (b) The Department must preserve every videotape and
20 audiotape of a victim-sensitive interview of a child who is
21 alleged to be an abused child, together with the written notes
22 and reports of the members of the multidisciplinary team
23 participating in or observing the interview, until all
24 judgments in legal proceedings relating to the
25 victim-sensitive interview are final and all direct and habeas

1 corpus appeals are exhausted or such legal proceedings are
2 barred by law.

3 (c) Any party to a proceeding relating to a
4 victim-sensitive interview of a child who is alleged to be an
5 abused child is entitled to obtain by subpoena a copy of the
6 videotape and audiotape of the interview and copies of any
7 written notes or reports of the members of the
8 multidisciplinary team participating in or observing the
9 interview.

10 (d) Notwithstanding any other law to the contrary, the
11 inspection and copying of a videotape or audiotape of a
12 victim-sensitive interview of a child who is alleged to be an
13 abused child by any person who is not one of the following is
14 prohibited: a judge, State's Attorney, Assistant State's
15 Attorney, psychologist, psychiatrist, social worker, doctor,
16 parent, parole agent, probation officer, attorney, guardian ad
17 litem or child's representative for the child, petitioner or
18 petitioner's attorney, plaintiff or plaintiffs attorney,
19 defendant or defendant's attorney, or respondent or
20 respondent's attorney, in a criminal proceeding or an
21 investigation related a criminal proceeding, in a child abuse
22 or child neglect proceeding, in a child custody or child
23 guardianship proceeding, or in an adoption proceeding.

24 (e) A non-offending caretaker of a child who is alleged to
25 be an abused child is entitled to receive a copy of the
26 videotape and audiotape, together with copies of any written

1 notes or reports prepared by participants or observers in the
2 victim-sensitive interview, within 30 days after serving on the
3 Department a written request for those materials. The caretaker
4 must submit the written request to the Department within 30
5 days after the completion of the victim-sensitive interview or
6 notice of the finding, whichever occurs later. The Department
7 is responsible for all costs associated with preparing copies
8 of the videotapes, audiotapes, and written notes and reports.
9 The Department must provide notice of the right to request
10 copies of the materials to all parties at the time of the
11 victim-sensitive interview.

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