



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2215

by Rep. Dwight Kay

SYNOPSIS AS INTRODUCED:

325 ILCS 5/4

from Ch. 23, par. 2054

Amends the Abused and Neglected Child Reporting Act by changing the criminal penalties for persons who knowingly and willfully violate certain reporting requirements and provisions concerning privileged communications. Provides that a first violation is a Class 4 felony (rather than a Class A misdemeanor) and a second or subsequent violation is a Class 3 felony (rather than a Class 4 felony), except that if the person acted as part of a plan or scheme having as its object the prevention of discovery of an abused or neglected child by lawful authorities for the purpose of protecting or insulating any person or entity from arrest or prosecution, a first violation is a Class 3 felony (rather than a Class 4 felony) and a second or subsequent violation is a Class 2 felony (rather than a Class 3 felony).

LRB098 05614 KTG 35652 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 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), personnel of institutions of
18 higher education, educational advocate assigned to a child
19 pursuant to the School Code, member of a school board or the
20 Chicago Board of Education or the governing body of a private
21 school (but only to the extent required in accordance with
22 other provisions of this Section expressly concerning the duty
23 of school board members to report suspected child abuse),

1 truant officers, social worker, social services administrator,
2 domestic violence program personnel, registered nurse,
3 licensed practical nurse, genetic counselor, respiratory care
4 practitioner, advanced practice nurse, home health aide,
5 director or staff assistant of a nursery school or a child day
6 care center, recreational or athletic program or facility
7 personnel, early intervention provider as defined in the Early
8 Intervention Services System Act, 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, Juvenile Justice, Public
14 Health, Human Services (acting as successor to the Department
15 of Mental Health and Developmental Disabilities,
16 Rehabilitation Services, or Public Aid), Corrections, Human
17 Rights, or Children and Family Services, supervisor and
18 administrator of general assistance under the Illinois Public
19 Aid Code, probation officer, animal control officer or Illinois
20 Department of Agriculture Bureau of Animal Health and Welfare
21 field investigator, or any other foster parent, homemaker or
22 child care worker having reasonable cause to believe a child
23 known to them in their professional or official capacity may be
24 an abused child or a neglected child shall immediately report
25 or cause a report to be made to the Department.

26 Any member of the clergy having reasonable cause to believe

1 that a child known to that member of the clergy in his or her
2 professional capacity may be an abused child as defined in item
3 (c) of the definition of "abused child" in Section 3 of this
4 Act shall immediately report or cause a report to be made to
5 the Department.

6 Any physician, physician's assistant, registered nurse,
7 licensed practical nurse, medical technician, certified
8 nursing assistant, social worker, or licensed professional
9 counselor of any office, clinic, or any other physical location
10 that provides abortions, abortion referrals, or contraceptives
11 having reasonable cause to believe a child known to him or her
12 in his or her professional or official capacity may be an
13 abused child or a neglected child shall immediately report or
14 cause a report to be made to the Department.

15 If an allegation is raised to a school board member during
16 the course of an open or closed school board meeting that a
17 child who is enrolled in the school district of which he or she
18 is a board member is an abused child as defined in Section 3 of
19 this Act, the member shall direct or cause the school board to
20 direct the superintendent of the school district or other
21 equivalent school administrator to comply with the
22 requirements of this Act concerning the reporting of child
23 abuse. For purposes of this paragraph, a school board member is
24 granted the authority in his or her individual capacity to
25 direct the superintendent of the school district or other
26 equivalent school administrator to comply with the

1 requirements of this Act concerning the reporting of child
2 abuse.

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

1 school district that if he or she applies for employment with
2 another school district, the general superintendent of the
3 former school district, upon the request of the school district
4 to which the employee applies, shall notify that requesting
5 school district that the employee is or was the subject of such
6 a report.

7 Whenever such person is required to report under this Act
8 in his capacity as a member of the staff of a medical or other
9 public or private institution, school, facility or agency, or
10 as a member of the clergy, he shall make report immediately to
11 the Department in accordance with the provisions of this Act
12 and may also notify the person in charge of such institution,
13 school, facility or agency, or church, synagogue, temple,
14 mosque, or other religious institution, or his designated agent
15 that such report has been made. Under no circumstances shall
16 any person in charge of such institution, school, facility or
17 agency, or church, synagogue, temple, mosque, or other
18 religious institution, or his designated agent to whom such
19 notification has been made, exercise any control, restraint,
20 modification or other change in the report or the forwarding of
21 such report to the Department.

22 The privileged quality of communication between any
23 professional person required to report and his patient or
24 client shall not apply to situations involving abused or
25 neglected children and shall not constitute grounds for failure
26 to report as required by this Act or constitute grounds for

1 failure to share information or documents with the Department
2 during the course of a child abuse or neglect investigation. If
3 requested by the professional, the Department shall confirm in
4 writing that the information or documents disclosed by the
5 professional were gathered in the course of a child abuse or
6 neglect investigation.

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

9 Any office, clinic, or any other physical location that
10 provides abortions, abortion referrals, or contraceptives
11 shall provide to all office personnel copies of written
12 information and training materials about abuse and neglect and
13 the requirements of this Act that are provided to employees of
14 the office, clinic, or physical location who are required to
15 make reports to the Department under this Act, and instruct
16 such office personnel to bring to the attention of an employee
17 of the office, clinic, or physical location who is required to
18 make reports to the Department under this Act any reasonable
19 suspicion that a child known to him or her in his or her
20 professional or official capacity may be an abused child or a
21 neglected child. In addition to the above persons required to
22 report suspected cases of abused or neglected children, any
23 other person may make a report if such person has reasonable
24 cause to believe a child may be an abused child or a neglected
25 child.

26 Any person who enters into employment on and after July 1,

1 1986 and is mandated by virtue of that employment to report
2 under this Act, shall sign a statement on a form prescribed by
3 the Department, to the effect that the employee has knowledge
4 and understanding of the reporting requirements of this Act.
5 The statement shall be signed prior to commencement of the
6 employment. The signed statement shall be retained by the
7 employer. The cost of printing, distribution, and filing of the
8 statement shall be borne by the employer.

9 The Department shall provide copies of this Act, upon
10 request, to all employers employing persons who shall be
11 required under the provisions of this Section to report under
12 this Act.

13 Any person who knowingly transmits a false report to the
14 Department commits the offense of disorderly conduct under
15 subsection (a)(7) of Section 26-1 of the "Criminal Code of
16 1961". A violation of this provision is a Class 4 felony.

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

1 guilty of a Class 3 ~~4~~ felony for a first offense and a Class 2 ~~3~~
2 felony for a second or subsequent offense (regardless of
3 whether the second or subsequent offense involves any of the
4 same facts or persons as the first or other prior offense).

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

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

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

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

25 For purposes of this Section "child abuse or neglect"
26 includes abuse or neglect of an adult resident as defined in

1 this Act.

2 (Source: P.A. 96-494, eff. 8-14-09; 96-1446, eff. 8-20-10;
3 97-189, eff. 7-22-11; 97-254, eff. 1-1-12; 97-387, eff.
4 8-15-11; 97-711, eff. 6-27-12; 97-813, eff. 7-13-12.)