



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5487

by Rep. Patricia R. Bellock

SYNOPSIS AS INTRODUCED:

325 ILCS 5/7.4

from Ch. 23, par. 2057.4

Amends the Abused and Neglected Child Reporting Act. Provides that when a report involves a child with a developmental or cognitive disability or with a physical disability that impacts the child's ability to communicate, the Department of Children and Family Services' investigation team shall include a licensed clinical social worker and a speech language pathologist who have experience, either in a clinical setting or as a therapist in an educational setting, in working with the child's specific disability to help assess the information received from the child. Provides that these persons shall be directly involved in preparing for the investigation by building awareness of the child's communication needs, including the use of assistive technology, and reading abilities, assessing whether a reduced number of or shortened interviews are warranted, and determining the appropriate environment for interviewing the child. Provides that if a forensic interview is to be conducted, the Department shall ensure that the interviewer is trained to interview individuals with disabilities or is accompanied by the Department's licensed clinical social worker and speech language pathologist. Provides that the Department shall ensure that the interviewer has access to individualized information about the child's disability from personal records, family members or care providers, and others with relevant information prior to meeting the child. Effective immediately.

LRB098 16895 KTG 51970 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 7.4 as follows:

6 (325 ILCS 5/7.4) (from Ch. 23, par. 2057.4)

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

17 (a-5) Beginning January 1, 2010, the Department of Children
18 and Family Services may implement a 5-year demonstration of a
19 "differential response program" in accordance with criteria,
20 standards, and procedures prescribed by rule. The program may
21 provide that, upon receiving a report, the Department shall
22 determine whether to conduct a family assessment or an
23 investigation as appropriate to prevent or provide a remedy for

1 child abuse or neglect.

2 For purposes of this subsection (a-5), "family assessment"
3 means a comprehensive assessment of child safety, risk of
4 subsequent child maltreatment, and family strengths and needs
5 that is applied to a child maltreatment report that does not
6 allege substantial child endangerment. "Family assessment"
7 does not include a determination as to whether child
8 maltreatment occurred but does determine the need for services
9 to address the safety of family members and the risk of
10 subsequent maltreatment.

11 For purposes of this subsection (a-5), "investigation"
12 means fact-gathering related to the current safety of a child
13 and the risk of subsequent abuse or neglect that determines
14 whether a report of suspected child abuse or neglect should be
15 indicated or unfounded and whether child protective services
16 are needed.

17 Under the "differential response program" implemented
18 under this subsection (a-5), the Department:

19 (1) Shall conduct an investigation on reports
20 involving substantial child abuse or neglect.

21 (2) Shall begin an immediate investigation if, at any
22 time when it is using a family assessment response, it
23 determines that there is reason to believe that substantial
24 child abuse or neglect or a serious threat to the child's
25 safety exists.

26 (3) May conduct a family assessment for reports that do

1 not allege substantial child endangerment. In determining
2 that a family assessment is appropriate, the Department may
3 consider issues including, but not limited to, child
4 safety, parental cooperation, and the need for an immediate
5 response.

6 (4) Shall promulgate criteria, standards, and
7 procedures that shall be applied in making this
8 determination, taking into consideration the Child
9 Endangerment Risk Assessment Protocol of the Department.

10 (5) May conduct a family assessment on a report that
11 was initially screened and assigned for an investigation.

12 In determining that a complete investigation is not
13 required, the Department must document the reason for
14 terminating the investigation and notify the local law
15 enforcement agency or the Department of State Police if the
16 local law enforcement agency or Department of State Police is
17 conducting a joint investigation.

18 Once it is determined that a "family assessment" will be
19 implemented, the case shall not be reported to the central
20 register of abuse and neglect reports.

21 During a family assessment, the Department shall collect
22 any available and relevant information to determine child
23 safety, risk of subsequent abuse or neglect, and family
24 strengths.

25 Information collected includes, but is not limited to, when
26 relevant: information with regard to the person reporting the

1 alleged abuse or neglect, including the nature of the
2 reporter's relationship to the child and to the alleged
3 offender, and the basis of the reporter's knowledge for the
4 report; the child allegedly being abused or neglected; the
5 alleged offender; the child's caretaker; and other collateral
6 sources having relevant information related to the alleged
7 abuse or neglect. Information relevant to the assessment must
8 be asked for, and may include:

9 (A) The child's sex and age, prior reports of abuse or
10 neglect, information relating to developmental
11 functioning, credibility of the child's statement, and
12 whether the information provided under this paragraph (A)
13 is consistent with other information collected during the
14 course of the assessment or investigation.

15 (B) The alleged offender's age, a record check for
16 prior reports of abuse or neglect, and criminal charges and
17 convictions. The alleged offender may submit supporting
18 documentation relevant to the assessment.

19 (C) Collateral source information regarding the
20 alleged abuse or neglect and care of the child. Collateral
21 information includes, when relevant: (i) a medical
22 examination of the child; (ii) prior medical records
23 relating to the alleged maltreatment or care of the child
24 maintained by any facility, clinic, or health care
25 professional, and an interview with the treating
26 professionals; and (iii) interviews with the child's

1 caretakers, including the child's parent, guardian, foster
2 parent, child care provider, teachers, counselors, family
3 members, relatives, and other persons who may have
4 knowledge regarding the alleged maltreatment and the care
5 of the child.

6 (D) Information on the existence of domestic abuse and
7 violence in the home of the child, and substance abuse.

8 Nothing in this subsection (a-5) precludes the Department
9 from collecting other relevant information necessary to
10 conduct the assessment or investigation. Nothing in this
11 subsection (a-5) shall be construed to allow the name or
12 identity of a reporter to be disclosed in violation of the
13 protections afforded under Section 7.19 of this Act.

14 After conducting the family assessment, the Department
15 shall determine whether services are needed to address the
16 safety of the child and other family members and the risk of
17 subsequent abuse or neglect.

18 Upon completion of the family assessment, if the Department
19 concludes that no services shall be offered, then the case
20 shall be closed. If the Department concludes that services
21 shall be offered, the Department shall develop a family
22 preservation plan and offer or refer services to the family.

23 At any time during a family assessment, if the Department
24 believes there is any reason to stop the assessment and conduct
25 an investigation based on the information discovered, the
26 Department shall do so.

1 The procedures available to the Department in conducting
2 investigations under this Act shall be followed as appropriate
3 during a family assessment.

4 The Department shall arrange for an independent evaluation
5 of the "differential response program" authorized and
6 implemented under this subsection (a-5) to determine whether it
7 is meeting the goals in accordance with Section 2 of this Act.
8 The Department may adopt administrative rules necessary for the
9 execution of this Section, in accordance with Section 4 of the
10 Children and Family Services Act.

11 The demonstration conducted under this subsection (a-5)
12 shall become a permanent program on January 1, 2015, upon
13 completion of the demonstration project period.

14 (b) (1) The following procedures shall be followed in the
15 investigation of all reports of suspected abuse or neglect
16 of a child, except as provided in subsection (c) of this
17 Section.

18 (2) If, during a family assessment authorized by
19 subsection (a-5) or an investigation, it appears that the
20 immediate safety or well-being of a child is endangered,
21 that the family may flee or the child disappear, or that
22 the facts otherwise so warrant, the Child Protective
23 Service Unit shall commence an investigation immediately,
24 regardless of the time of day or night. All other
25 investigations shall be commenced within 24 hours of
26 receipt of the report. Upon receipt of a report, the Child

1 Protective Service Unit shall conduct a family assessment
2 authorized by subsection (a-5) or begin an initial
3 investigation and make an initial determination whether
4 the report is a good faith indication of alleged child
5 abuse or neglect.

6 (3) Based on an initial investigation, if the Unit
7 determines the report is a good faith indication of alleged
8 child abuse or neglect, then a formal investigation shall
9 commence and, pursuant to Section 7.12 of this Act, may or
10 may not result in an indicated report. The formal
11 investigation shall include: direct contact with the
12 subject or subjects of the report as soon as possible after
13 the report is received; an evaluation of the environment of
14 the child named in the report and any other children in the
15 same environment; a determination of the risk to such
16 children if they continue to remain in the existing
17 environments, as well as a determination of the nature,
18 extent and cause of any condition enumerated in such
19 report; the name, age and condition of other children in
20 the environment; and an evaluation as to whether there
21 would be an immediate and urgent necessity to remove the
22 child from the environment if appropriate family
23 preservation services were provided. After seeing to the
24 safety of the child or children, the Department shall
25 forthwith notify the subjects of the report in writing, of
26 the existence of the report and their rights existing under

1 this Act in regard to amendment or expungement. To fulfill
2 the requirements of this Section, the Child Protective
3 Service Unit shall have the capability of providing or
4 arranging for comprehensive emergency services to children
5 and families at all times of the day or night.

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

26 (c) In an investigation of a report of suspected abuse or

1 neglect of a child by a school employee at a school or on
2 school grounds, the Department shall make reasonable efforts to
3 follow the following procedures:

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

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

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

11 (3) If a report of neglect or abuse of a child by a
12 teacher or administrator involves an allegation of sexual
13 abuse or extreme physical abuse, the Child Protective Unit
14 shall commence an investigation under paragraph (2) of
15 subsection (b) of this Section.

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

23 (d) If the Department has contact with an employer, or with
24 a religious institution or religious official having
25 supervisory or hierarchical authority over a member of the
26 clergy accused of the abuse of a child, in the course of its

1 investigation, the Department shall notify the employer or the
2 religious institution or religious official, in writing, when a
3 report is unfounded so that any record of the investigation can
4 be expunged from the employee's or member of the clergy's
5 personnel or other records. The Department shall also notify
6 the employee or the member of the clergy, in writing, that
7 notification has been sent to the employer or to the
8 appropriate religious institution or religious official
9 informing the employer or religious institution or religious
10 official that the Department's investigation has resulted in an
11 unfounded report.

12 (e) Upon request by the Department, the Department of State
13 Police and law enforcement agencies are authorized to provide
14 criminal history record information as defined in the Illinois
15 Uniform Conviction Information Act and information maintained
16 in the adjudicatory and dispositional record system as defined
17 in Section 2605-355 of the Department of State Police Law (20
18 ILCS 2605/2605-355) to properly designated employees of the
19 Department of Children and Family Services if the Department
20 determines the information is necessary to perform its duties
21 under the Abused and Neglected Child Reporting Act, the Child
22 Care Act of 1969, and the Children and Family Services Act. The
23 request shall be in the form and manner required by the
24 Department of State Police. Any information obtained by the
25 Department of Children and Family Services under this Section
26 is confidential and may not be transmitted outside the

1 Department of Children and Family Services other than to a
2 court of competent jurisdiction or unless otherwise authorized
3 by law. Any employee of the Department of Children and Family
4 Services who transmits confidential information in violation
5 of this Section or causes the information to be transmitted in
6 violation of this Section is guilty of a Class A misdemeanor
7 unless the transmittal of the information is authorized by this
8 Section or otherwise authorized by law.

9 (f) For purposes of this Section "child abuse or neglect"
10 includes abuse or neglect of an adult resident as defined in
11 this Act.

12 (g) When a report involves a child with a developmental or
13 cognitive disability or with a physical disability that impacts
14 the child's ability to communicate, the Department's
15 investigation team shall include a licensed clinical social
16 worker and a speech language pathologist who have experience,
17 either in a clinical setting or as a therapist in an
18 educational setting, in working with the child's specific
19 disability to help assess the information received from the
20 child. These persons shall be directly involved in preparing
21 for the investigation by building awareness of the child's
22 communication needs, including the use of assistive
23 technology, and reading abilities, assessing whether a reduced
24 number of or shortened interviews are warranted, and
25 determining the appropriate environment for interviewing the
26 child. If a forensic interview is to be conducted, the

1 Department shall ensure that the interviewer is trained to
2 interview individuals with disabilities or is accompanied by
3 the Department's licensed clinical social worker and speech
4 language pathologist, and the Department shall ensure that the
5 interviewer has access to individualized information about the
6 child's disability from personal records, family members or
7 care providers, and others with relevant information prior to
8 meeting the child.

9 (Source: P.A. 95-908, eff. 8-26-08; 96-760, eff. 1-1-10;
10 96-1446, eff. 8-20-10.)

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