



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB3146

Introduced 2/11/2014, by Sen. Mattie Hunter

#### SYNOPSIS AS INTRODUCED:

325 ILCS 5/7.4

from Ch. 23, par. 2057.4

Amends the Abused and Neglected Child Reporting Act. Provides that beginning January 1, 2015 (rather January 1, 2010), the Department of Children and Family Services shall (rather than may) implement a 3-year (rather than a 5-year) demonstration of a "differential response program" in accordance with criteria, standards, and procedures prescribed by rule. Provides that the program shall (rather than may) provide that, upon receiving a report, the Department shall determine whether to conduct a family assessment or an investigation as appropriate to prevent or provide a remedy for child abuse or neglect. In a provision concerning an independent evaluation of the differential response program, requires (i) the independent evaluator to collect appropriate data about the differential response program and (ii) the Department to provide annual reports and a final report to the General Assembly and to the Governor regarding the differential response program. Requires the Department to adopt any necessary administrative rules for the execution of certain provisions. Provides that the differential response program shall become a permanent program on January 1, 2018 (rather than on January 1, 2015), upon completion of the demonstration project period. Effective immediately.

LRB098 16061 KTG 51114 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, 2015 ~~2010~~, the Department of  
18 Children and Family Services shall ~~may~~ implement a 3-year  
19 ~~5-year~~ demonstration of a "differential response program" in  
20 accordance with criteria, standards, and procedures prescribed  
21 by rule. The program shall ~~may~~ provide that, upon receiving a  
22 report, the Department shall determine whether to conduct a  
23 family assessment or an investigation as appropriate to prevent

1 or provide a remedy for 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 independent evaluator shall collect appropriate data about  
9 the differential response program. The Department shall  
10 provide annual reports to the General Assembly and to the  
11 Governor regarding the differential response program no later  
12 than March 31st of each year of the demonstration program  
13 beginning in 2016, and the final report on the demonstration  
14 program shall be submitted no later than March 31, 2018. The  
15 Department shall ~~may~~ adopt administrative rules necessary for  
16 the execution of this Section, in accordance with Section 4 of  
17 the Children and Family Services Act.

18           The demonstration conducted under this subsection (a-5)  
19 shall become a permanent program on January 1, 2018 ~~2015~~, upon  
20 completion of the demonstration project period.

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

25           (2) If, during a family assessment authorized by  
26 subsection (a-5) or an investigation, it appears that the

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

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



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

13 (4) If (i) at the conclusion of the Unit's initial  
14 investigation of a report, the Unit determines the report  
15 to be a good faith indication of alleged child abuse or  
16 neglect that warrants a formal investigation by the Unit,  
17 the Department, any law enforcement agency or any other  
18 responsible agency and (ii) the person who is alleged to  
19 have caused the abuse or neglect is employed or otherwise  
20 engaged in an activity resulting in frequent contact with  
21 children and the alleged abuse or neglect are in the course  
22 of such employment or activity, then the Department shall,  
23 except in investigations where the Director determines  
24 that such notification would be detrimental to the  
25 Department's investigation, inform the appropriate  
26 supervisor or administrator of that employment or activity

1           that the Unit has commenced a formal investigation pursuant  
2           to this Act, which may or may not result in an indicated  
3           report. The Department shall also notify the person being  
4           investigated, unless the Director determines that such  
5           notification would be detrimental to the Department's  
6           investigation.

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

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

1           older, or the right to review the specific allegations  
2           which gave rise to the investigation, and the right to  
3           review all materials and evidence that have been submitted  
4           to the Department in support of the allegation. These due  
5           process rights shall also include the right of the school  
6           employee to present countervailing evidence regarding the  
7           accusations.

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

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

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

23          (c-5) In any instance in which a report is made or caused  
24          to made by a school district employee involving the conduct of  
25          a person employed by the school district, at the time the  
26          report was made, as required under Section 4 of this Act, the

1 Child Protective Service Unit shall send a copy of its final  
2 finding report to the general superintendent of that school  
3 district.

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

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

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

16 (f) For purposes of this Section "child abuse or neglect"  
17 includes abuse or neglect of an adult resident as defined in  
18 this Act.

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

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law.