

1 AN ACT in relation to children.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the  
5 Newborn Infant Protection Act.

6 Section 5. Definition. In this Act, "emergency medical  
7 services provider" means a hospital licensed under the  
8 Hospital licensing Act that operates an emergency department.  
9 "Emergency medical services provider" does not include the  
10 office, clinic, or surgical or treatment facility of a  
11 private physician or dentist. An individual licensed  
12 healthcare provider, including a physician, dentist, nurse,  
13 physician assistant, or other health professional, shall not  
14 be deemed to be an emergency medical services provider under  
15 this Act unless that individual voluntarily assumes  
16 responsibility for the custody of a child under this Act.

17 Section 10. Delivery of newborn child to emergency  
18 medical services provider.

19 (a) An emergency medical services provider, without a  
20 court order, shall take possession of a child who is 72 hours  
21 old or younger if the child is voluntarily delivered to the  
22 provider by the child's parent and the parent did not express  
23 an intent to return for the child.

24 (b) An emergency medical services provider who takes  
25 possession of a child under this Section shall perform any  
26 act necessary to protect the physical health or safety of the  
27 child.

28 Section 15. Notice to Department of Children and Family  
29 Services.

1 (a) No later than the close of the first business day  
2 after the date on which an emergency medical services  
3 provider takes possession of a child pursuant to Section 10,  
4 the provider shall notify the Department of Children and  
5 Family Services that the provider has taken possession of the  
6 child.

7 (b) The Department of Children and Family Services shall  
8 assume the care, control, and custody of the child  
9 immediately on receipt of notice pursuant to subsection (a).  
10 The Department shall be responsible for all medical and other  
11 costs associated with the child and shall reimburse the  
12 emergency medical services provider for any costs incurred by  
13 the provider in caring for the child before the child was  
14 placed in the care of the Department.

15 Section 20. Affirmative defense. It is an affirmative  
16 defense to a prosecution under Section 12-21.5 or 12-21.6 of  
17 the Criminal Code of 1961 if a parent voluntarily delivers  
18 the child to an emergency medical services provider pursuant  
19 to Section 10.

20 Section 25. Civil immunity. A person or other entity  
21 subject to the provisions of this Act is not liable to any  
22 person for any claim for damages as a result of any action  
23 taken pursuant to the requirements of this Act, and no  
24 lawsuit may be predicated on any such action.

25 Section 30. The provisions of this Act are severable  
26 under Section 1.31 of the Statute on Statutes.

27 Section 90. The Abused and Neglected Child Reporting Act  
28 is amended by changing Section 3 as follows:

29 (325 ILCS 5/3) (from Ch. 23, par. 2053)

1           Sec. 3. As used in this Act unless the context otherwise  
2 requires:

3           "Child" means any person under the age of 18 years,  
4 unless legally emancipated by reason of marriage or entry  
5 into a branch of the United States armed services.

6           "Department" means Department of Children and Family  
7 Services.

8           "Local law enforcement agency" means the police of a  
9 city, town, village or other incorporated area or the sheriff  
10 of an unincorporated area or any sworn officer of the  
11 Illinois Department of State Police.

12           "Abused child" means a child whose parent or immediate  
13 family member, or any person responsible for the child's  
14 welfare, or any individual residing in the same home as the  
15 child, or a paramour of the child's parent:

16           a. inflicts, causes to be inflicted, or allows to  
17 be inflicted upon such child physical injury, by other  
18 than accidental means, which causes death, disfigurement,  
19 impairment of physical or emotional health, or loss or  
20 impairment of any bodily function;

21           b. creates a substantial risk of physical injury to  
22 such child by other than accidental means which would be  
23 likely to cause death, disfigurement, impairment of  
24 physical or emotional health, or loss or impairment of  
25 any bodily function;

26           c. commits or allows to be committed any sex  
27 offense against such child, as such sex offenses are  
28 defined in the Criminal Code of 1961, as amended, and  
29 extending those definitions of sex offenses to include  
30 children under 18 years of age;

31           d. commits or allows to be committed an act or acts  
32 of torture upon such child;

33           e. inflicts excessive corporal punishment;

34           f. commits or allows to be committed the offense of

1 female genital mutilation, as defined in Section 12-34 of  
2 the Criminal Code of 1961, against the child; or

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

12 "Neglected child" means any child who is not receiving  
13 the proper or necessary nourishment or medically indicated  
14 treatment including food or care not provided solely on the  
15 basis of the present or anticipated mental or physical  
16 impairment as determined by a physician acting alone or in  
17 consultation with other physicians or otherwise is not  
18 receiving the proper or necessary support or medical or other  
19 remedial care recognized under State law as necessary for a  
20 child's well-being, or other care necessary for his or her  
21 well-being, including adequate food, clothing and shelter; or  
22 who is abandoned by his or her parents or other person  
23 responsible for the child's welfare without a proper plan of  
24 care; or who is a newborn infant whose blood, urine, or  
25 meconium contains any amount of a controlled substance as  
26 defined in subsection (f) of Section 102 of the Illinois  
27 Controlled Substances Act or a metabolite thereof, with the  
28 exception of a controlled substance or metabolite thereof  
29 whose presence in the newborn infant is the result of medical  
30 treatment administered to the mother or the newborn infant. A  
31 child shall not be considered neglected for the sole reason  
32 that the child's parent or other person responsible for his  
33 or her welfare has left the child in the care of an adult  
34 relative for any period of time. A child shall not be

1 considered neglected or abused for the sole reason that the  
2 child's parent delivered the child to an emergency medical  
3 services provider in accordance with the Newborn Infant  
4 Protection Act. A child shall not be considered neglected or  
5 abused for the sole reason that such child's parent or other  
6 person responsible for his or her welfare depends upon  
7 spiritual means through prayer alone for the treatment or  
8 cure of disease or remedial care as provided under Section 4  
9 of this Act. A child shall not be considered neglected or  
10 abused solely because the child is not attending school in  
11 accordance with the requirements of Article 26 of The School  
12 Code, as amended.

13 "Child Protective Service Unit" means certain specialized  
14 State employees of the Department assigned by the Director to  
15 perform the duties and responsibilities as provided under  
16 Section 7.2 of this Act.

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

30 "Temporary protective custody" means custody within a  
31 hospital or other medical facility or a place previously  
32 designated for such custody by the Department, subject to  
33 review by the Court, including a licensed foster home, group  
34 home, or other institution; but such place shall not be a

1 jail or other place for the detention of criminal or juvenile  
2 offenders.

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

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

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

13 "Subject of report" means any child reported to the  
14 central register of child abuse and neglect established under  
15 Section 7.7 of this Act and his or her parent, guardian or  
16 other person responsible who is also named in the report.

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

20 (Source: P.A. 90-239, eff. 7-28-97; 90-684, eff. 7-31-98;  
21 91-802, eff. 1-1-01.)

22 Section 92. The Juvenile Court Act of 1987 is amended by  
23 changing Section 2-3 as follows:

24 (705 ILCS 405/2-3) (from Ch. 37, par. 802-3)

25 Sec. 2-3. Neglected or abused minor.

26 (1) Those who are neglected include:

27 (a) any minor under 18 years of age who is not  
28 receiving the proper or necessary support, education as  
29 required by law, or medical or other remedial care  
30 recognized under State law as necessary for a minor's  
31 well-being, or other care necessary for his or her  
32 well-being, including adequate food, clothing and

1 shelter, or who is abandoned by his or her parents or  
2 other person responsible for the minor's welfare, except  
3 that a minor shall not be considered neglected for the  
4 sole reason that the minor's parent or other person  
5 responsible for the minor's welfare has left the minor in  
6 the care of an adult relative for any period of time; or

7 (b) any minor under 18 years of age whose  
8 environment is injurious to his or her welfare; or

9 (c) any newborn infant whose blood, urine, or  
10 meconium contains any amount of a controlled substance as  
11 defined in subsection (f) of Section 102 of the Illinois  
12 Controlled Substances Act, as now or hereafter amended,  
13 or a metabolite of a controlled substance, with the  
14 exception of controlled substances or metabolites of such  
15 substances, the presence of which in the newborn infant  
16 is the result of medical treatment administered to the  
17 mother or the newborn infant; or

18 (d) any minor under the age of 14 years whose  
19 parent or other person responsible for the minor's  
20 welfare leaves the minor without supervision for an  
21 unreasonable period of time without regard for the mental  
22 or physical health, safety, or welfare of that minor.

23 Whether the minor was left without regard for the mental  
24 or physical health, safety, or welfare of that minor or the  
25 period of time was unreasonable shall be determined by  
26 considering the following factors, including but not limited  
27 to:

28 (1) the age of the minor;

29 (2) the number of minors left at the location;

30 (3) special needs of the minor, including whether  
31 the minor is physically or mentally handicapped, or  
32 otherwise in need of ongoing prescribed medical treatment  
33 such as periodic doses of insulin or other medications;

34 (4) the duration of time in which the minor was

1 left without supervision;

2 (5) the condition and location of the place where  
3 the minor was left without supervision;

4 (6) the time of day or night when the minor was  
5 left without supervision;

6 (7) the weather conditions, including whether the  
7 minor was left in a location with adequate protection  
8 from the natural elements such as adequate heat or light;

9 (8) the location of the parent or guardian at the  
10 time the minor was left without supervision, the physical  
11 distance the minor was from the parent or guardian at the  
12 time the minor was without supervision;

13 (9) whether the minor's movement was restricted, or  
14 the minor was otherwise locked within a room or other  
15 structure;

16 (10) whether the minor was given a phone number of  
17 a person or location to call in the event of an emergency  
18 and whether the minor was capable of making an emergency  
19 call;

20 (11) whether there was food and other provision  
21 left for the minor;

22 (12) whether any of the conduct is attributable to  
23 economic hardship or illness and the parent, guardian or  
24 other person having physical custody or control of the  
25 child made a good faith effort to provide for the health  
26 and safety of the minor;

27 (13) the age and physical and mental capabilities  
28 of the person or persons who provided supervision for the  
29 minor;

30 (14) whether the minor was left under the  
31 supervision of another person;

32 (15) any other factor that would endanger the  
33 health and safety of that particular minor.

34 (2) Those who are abused include any minor under 18



1 years of age whose parent or immediate family member, or any  
2 person responsible for the minor's welfare, or any person who  
3 is in the same family or household as the minor, or any  
4 individual residing in the same home as the minor, or a  
5 paramour of the minor's parent:

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

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

16 (iii) commits or allows to be committed any sex  
17 offense against such minor, as such sex offenses are  
18 defined in the Criminal Code of 1961, as amended, and  
19 extending those definitions of sex offenses to include  
20 minors under 18 years of age;

21 (iv) commits or allows to be committed an act or  
22 acts of torture upon such minor; or

23 (v) inflicts excessive corporal punishment.

24 (3) This Section does not apply to a minor who would be  
25 included herein solely for the purpose of qualifying for  
26 financial assistance for himself, his parents, guardian or  
27 custodian.

28 (4) A minor shall not be considered neglected or abused  
29 for the sole reason that the minor's parent delivered the  
30 minor to an emergency medical services provider in accordance  
31 with the Newborn Infant Protection Act.

32 (Source: P.A. 89-21, eff. 7-1-95; 90-239, eff. 7-28-97.)

33 Section 95. The Criminal Code of 1961 is amended by

1 changing Sections 12-21.5 and 12-21.6 as follows:

2 (720 ILCS 5/12-21.5)

3 Sec. 12-21.5. Child Abandonment.

4 (a) A person commits the offense of child abandonment  
5 when he or she, as a parent, guardian, or other person having  
6 physical custody or control of a child, without regard for  
7 the mental or physical health, safety, or welfare of that  
8 child, knowingly leaves that child who is under the age of 13  
9 without supervision by a responsible person over the age of  
10 14 for a period of 24 hours or more.

11 (b) For the purposes of determining whether the child  
12 was left without regard for the mental or physical health,  
13 safety, or welfare of that child, the trier of fact shall  
14 consider the following factors:

- 15 (1) the age of the child;
- 16 (2) the number of children left at the location;
- 17 (3) special needs of the child, including whether  
18 the child is physically or mentally handicapped, or  
19 otherwise in need of ongoing prescribed medical treatment  
20 such as periodic doses of insulin or other medications;
- 21 (4) the duration of time in which the child was  
22 left without supervision;
- 23 (5) the condition and location of the place where  
24 the child was left without supervision;
- 25 (6) the time of day or night when the child was  
26 left without supervision;
- 27 (7) the weather conditions, including whether the  
28 child was left in a location with adequate protection  
29 from the natural elements such as adequate heat or light;
- 30 (8) the location of the parent, guardian, or other  
31 person having physical custody or control of the child at  
32 the time the child was left without supervision, the  
33 physical distance the child was from the parent,

1 guardian, or other person having physical custody or  
2 control of the child at the time the child was without  
3 supervision;

4 (9) whether the child's movement was restricted, or  
5 the child was otherwise locked within a room or other  
6 structure;

7 (10) whether the child was given a phone number of  
8 a person or location to call in the event of an emergency  
9 and whether the child was capable of making an emergency  
10 call;

11 (11) whether there was food and other provision  
12 left for the child;

13 (12) whether any of the conduct is attributable to  
14 economic hardship or illness and the parent, guardian or  
15 other person having physical custody or control of the  
16 child made a good faith effort to provide for the health  
17 and safety of the child;

18 (13) the age and physical and mental capabilities  
19 of the person or persons who provided supervision for the  
20 child;

21 (14) any other factor that would endanger the  
22 health or safety of that particular child;

23 (15) whether the child was left under the  
24 supervision of another person.

25 (c) It is an affirmative defense to a charge of child  
26 abandonment under this Section that a parent voluntarily  
27 delivered the child to an emergency medical services provider  
28 in accordance with the Newborn Infant Protection Act.

29 (d) Child abandonment is a Class 4 felony. A second or  
30 subsequent offense after a prior conviction is a Class 3  
31 felony.

32 (Source: P.A. 88-479.)

33 (720 ILCS 5/12-21.6)

1           Sec. 12-21.6. Endangering the life or health of a child.

2           (a) It is unlawful for any person to willfully cause or  
3 permit the life or health of a child under the age of 18 to  
4 be endangered or to willfully cause or permit a child to be  
5 placed in circumstances that endanger the child's life or  
6 health.

7           (a-5) It is an affirmative defense to a charge of  
8 endangering the life or health of a child under this Section  
9 that a parent voluntarily delivered the child to an emergency  
10 medical services provider in accordance with the Newborn  
11 Infant Protection Act.

12           (b) A violation of this Section is a Class A  
13 misdemeanor. A second or subsequent violation of this  
14 Section is a Class 3 felony. A violation of this Section  
15 that is a proximate cause of the death of the child is a  
16 Class 3 felony for which a person, if sentenced to a term of  
17 imprisonment, shall be sentenced to a term of not less than 2  
18 years and not more than 10 years.

19           (Source: P.A. 90-687, eff. 7-31-98.)