Senate Bill 378— Protecting Innocent Families Act
Frequently Asked Questions

For more information: Michelle Weidner, michelle@famjustice.org; Sharlyn Grace, sharlyn.grace@cookcountyil.gov

How does SB 378 protect children?

SB 378 helps prevent unnecessary family separation in the child welfare system by ensuring two common sense measures for families: 1. Informing them of any investigation that is taking place and 2. allowing families to seek second opinions when an investigative doctor gives an opinion of abuse or neglect. Taking a child to the hospital is a traumatizing experience for the entire family. Quick decisions have to be made and families are concerned about the health of their child. An incorrect initial diagnosis of maltreatment of a child could lead to unnecessary family separation. Doing that in the dark without the opportunity to double check any diagnosis could be catastrophic for the family. This is even more consequential for Black families who are disproportionately separated. Providing simple guardrails during the investigation helps prevent unnecessary family separation while not getting in the way of medical treatment of a child. This bill creates essential due process provisions to prevent wrongful removals based on misdiagnoses or rushed decisions that can jeopardize children's health while maintaining existing child welfare processes.

Do Child Abuse Pediatricians work under contract with DCFS? Why does this matter?

Yes, most child abuse pediatricians (CAPs) do work under contracts with DCFS [1], which significantly impacts how they engage with children and families. With over 70% of their salaries funded by the Department, contracted CAPs are relied upon to conduct medical investigations for DCFS, law enforcement and prosecutors, and to testify in juvenile, criminal, and administrative proceedings.

When CAPs provide opinions on child abuse, they operate as representatives of the state rather than solely as dedicated medical professionals focused on a child's well-being. This was affirmed in the case *Mohil v. Glick*[2], which established their status as state actors in these evaluations. This dual role can lead to conflicts that might not align with the best interests of families—particularly for Black families who often face systemic biases in the child welfare system. In short, CAPs have been deputized to perform investigations for law enforcement while not disclosing their role to the families being investigated. Therefore, it is crucial for parents to understand who is involved in their child's care, ensuring transparency and empowering them to advocate for their children.

This bill codifies an existing duty already enshrined in Illinois law, specifically the Child Abuse and Neglect Reporting Act (325 ILCS 5/7.12) and the Medical Practice Act of 1987 (225 ILCS 100/21 and 225 ILCS 100/22). Additionally, the American Medical Association's Code of Ethics[3]

---

[1] *See*, Contract Between DCFS and University of Chicago, MPEEC- Agreement 3924519012 ($914,790/yr); Contract Between DCFS and University of Chicago, MPEEC, Sub-contract with Advocate- Agreement 3924519012 ($80,000/yr); Contract Between DCFS and University of Illinois, Merit Program- Agreement 1714919013 ($168,096/yr); Contract Between DCFS and University of Illinois, Pediatric Resource Center- Agreement 2285979013 ($193,310/yr); Contract Between DCFS and University of Illinois, Medical Evaluations- Agreement 2122872013 (230,400/yr); Linkage Agreement Between Lurie and Chicago CAC (*Agreement not publicly available)*

[2] *Mohil v. Glick*, 842 F. Supp. 2d 1072

[3] AMA Ethics Opinions Related to Disclosure: 1.1.1 Patient-Physician Relationships, 1.1.3 Patient Rights, 1.2.3 Consultation, Referral, & Second Opinion, 1.2.6 Work-Related & Independent Medical Examinations, 2.1.1. Informed Consent, 2.1.3 Withholding Information from Patients, 2.2.1 Pediatric Decision Making, 9.7.1 Medical Testimony, 9.7.4 Physician Participation in Interrogation, 10.1 Ethics Guidance for Physicians in Nonclinical Roles, 10.1.1 Ethical Obligations of Medical Directors, 11.2.2 Conflicts of Interest in Patient CareParticipation in Interrogation, 10.1 Ethics Guidance for Physicians in Nonclinical Roles, 10.1.1 Ethical Obligations of Medical Directors, 11.2.2 Conflicts of Interest in Patient Care

overwhelmingly supports the need for physicians to disclose their identities, affiliations, and any financial interests that could influence their clinical decisions. This legislation does not introduce new requirements; rather, it reinforces existing obligations under state law and medical ethics. It ensures that families are informed and empowered, while preserving all existing child welfare protections for children.

Do CAPs already say who they are?

CAPs often claim they keep parents informed about their roles, suggesting this is standard practice. However, public defender offices and private attorneys reveal a stark truth: most families remain unaware of a CAP's involvement until DCFS takes action to remove their children.

If disclosures were as routine and transparent as opponents suggest, we wouldn't witness ongoing demands for transparency in states like New York[4] and Texas[5], where lawmakers are actively pursuing reforms. These efforts reflect a growing recognition that transparency is essential to protect families from unjust actions within the child welfare system.

In fact, our bill was referenced in a May 2024 article in the *Journal of the American Medical Association*[6], which stresses that CAPs have an ethical and professional duty to disclose their roles both within and outside the medical center. The authors, including a Yale child abuse pediatrician, specifically note that CAPs should clearly inform families that their assessments could be shared with Child Protective Services and law enforcement.

But even if CAPs are already notifying parents of their investigatory role, then SB 376 would merely codify an important existent practice and be no burden on the care of children.

Why is it important that DCFS notify parents that they have the right to get a second medical opinion?

If you took your child to a doctor and received a diagnosis that resulted in your child being removed from your care, would you want the opportunity to get a second opinion? Of course you would, just as you would want a second opinion for any diagnosis that you or a loved one received. In fact, most doctors encourage second opinions to ensure they get their critical diagnosis correct. Why should it be any different for families being investigated by CAPs? This is not only crucial protection for families but helps ensure CAPs get it right, which is the most important goal. The amount of trauma, money, and resources spent on a child protection case are enormous and we as a society should be doing everything to prevent unnecessary family separation and involvement in the child welfare system. This simple measure helps prevent unnecessary child separation and the significant costs it creates. While child abuse pediatricians play a role in protecting children, other specialists—such as orthopedic surgeons and neurosurgeons—also offer essential insights into injuries and conditions that may mimic signs of abuse. Collaborative decision-making, as endorsed by the American Medical Association's Code of Ethics, is necessary to ensure that no single specialty has unilateral control over the diagnostic or treatment process.

---

[4] New York S901A
[5] Texas SB 1578
[6] Raz M, Gupta-Kagan J, Asnes AG. Disclosure Is an Essential Component of Ethical Practice: "I Am the Child Abuse Pediatrician". JAMA Pediatr. 2024;178(7):641–642

This bill simply requires families to be notified of an an existing right to a second opinion, a right already supported by several legal provisions, including the Illinois Administrative Code (Title 89, Chapter III, Part 300), the Illinois Child Abuse and Neglect Act (325 ILCS 5/7.12), the Illinois Code of Civil Procedure (735 ILCS 5/3-101), the Illinois Administrative Procedure Act (5 ILCS 100/10-65), Illinois Public Act (99-349), and Illinois Department of Children and Family Services v. Arnold (851 N.E.2d 931 (Ill. App. Ct. 2006)).

By notifying parents of this right, we can mitigate the risks associated with relying on a single perspective, reducing the potential for misinterpretations that could lead to wrongful actions, such as the unjust removal of children from their homes or incorrect medical treatment due to misdiagnosis. It's essential to recognize that the complexities of medical cases require input from multiple experts to ensure accurate and fair outcomes.

What happens if a parent chooses not to talk to the child abuse pediatrician after they disclose their role?

This bill does not alter DCFS's ability to act decisively in critical situations. If a parent chooses to exercise their right not to communicate with medical professionals—rights protected under the Abused and Neglected Child Reporting Act (325 ILCS 5/7.3)—DCFS has clear policies in place to protect the child. They can take swift action to ensure a child's safety, including protective custody, if necessary, when a child's safety is at imminent risk. Moreover, the Consent by Minors to Health Care Services Act (410 ILCS 210/0.01 et seq.) allows for urgent medical care without parental consent in emergencies.

Why is the data provision of SB 378 important?

Transparency and accountability are vital for effective governance, especially for professionals operating under government contracts. The recent Compliance Examination by the Illinois Office of the Auditor General[7] found inadequate documentation of monitoring for contract compliance within DCFS, emphasizing the need for enhanced oversight.

The need for enhanced data collection is underscored by the conflicting information reported by opponents of the bill. For example, a child abuse pediatrician (CAP) at the University of Chicago claims that only 18% of children with higher-risk injuries evaluated at her clinic are found to have been abused.[8] In contrast, the Illinois Chapter of the American Academy of Pediatrics (ICAAP) reports that 45% of cases from the same clinic result in substantiated abuse.[9] This significant discrepancy highlights the urgent necessity for DCFS to independently gather comprehensive baseline data from all child abuse pediatricians contracted with the agency.

Strengthening our state's child welfare system requires a commitment to transparency and accountability. In 2023, 147,101 Illinois children were subjected to abuse investigations, with 111,783—76%—ultimately found not to be victims of abuse.[10] These alarming figures underscore the need for accurate data to inform policies and practices. More robust data collection will help identify

[7] State of Illinois Department of Children and Family Services, State Compliance Examination for the Two years ended June 30, 2022
[8] Letter from Dr. Jill Glick (University of Chicago CAP) to Rep. Steven Reick
[9] Fact Sheet "Oppose SB 378", written by the Illinois Chapter of the American Academy of Pediatrics and distributed to lawmakers
[10] IL DCFS, Six-Year Statistics on Child Protective Services, Published July 2024

patterns and improve response strategies, leading to better outcomes for children and families. By enhancing our data systems, we can ensure that investigations are conducted fairly and effectively, reducing the trauma of unnecessary scrutiny and fostering a system that protects vulnerable children.

How does SB 378 help protect Black families?

Black families are disproportionately targeted by child welfare systems, leading to wrongful allegations and severe consequences. Alarmingly, 53% of Black families in the U.S. are investigated by child welfare agencies at least once.[11] In Cook County, the disparities are even starker: 68% of children in DCFS care are Black, while they represent only 23% of the general population.[12] This rate of disproportionality is similar statewide. Once entangled in the system, Black families face more serious charges and longer separation times, even when allegations are ultimately disproved.

Research from the Stanford School of Medicine highlights this bias, revealing that Black children are over-reported as suspected victims of child abuse in cases of traumatic injuries, regardless of socioeconomic factors. The study, published in the *Journal of Pediatric Surgery,* analyzed nearly 800,000 traumatic injuries and found that Black children constituted 33% of suspected child abuse victims, despite only making up 18% of the general population of injured children.[13]

In a letter to legislators, opponents of this bill dismissed concerns about racial disproportionality as a "false narrative," claiming that "CAPs actively counter bias potential by establishing pre-determined clinical decision-making tools."[14] This view belies the clear data showing racial disproportionality. Opponents fail to recognize that these tools cast a wide net, disproportionately affecting innocent families, particularly those from marginalized communities.

How does SB 378 help protect families who have children with complex medical conditions?

Illinois SB 378 provides essential protections for families of children with complex medical conditions, such as birth injuries, rare diseases, and chronic conditions, which can present with medical findings that may be misinterpreted as signs of abuse.[15] Families in these situations often require frequent medical interactions, heightening their vulnerability to misdiagnosis and unwarranted allegations. SB 378 promotes a transparent investigative process, ensuring that families have access to second medical opinions, so that the complexities of a child's condition are accurately evaluated. This safeguard not only minimizes the risk of unnecessary family separation during an already stressful period but also helps prevent allegations from disrupting the ongoing diagnostic and treatment process—ensuring that medical care remains focused on the child's actual health needs.

---

[11] Kim, H., Wildeman, C., Jonson-Reid, M., & Drake, B. "Lifetime Prevalence of Investigating Child Maltreatment Among US Children." American Journal of Public Health, vol. 107, no. 2, 2017, pp. 274-280.
[12] Illinois Department of Children & Family Services. (2023, January 31). Youth In Care By Demographic.
[13] Diyaolu, Modupeola, et al. "Disparities in Detection of Suspected Child Abuse." Journal of Pediatric Surgery, vol. 58, no. 2, 2023, pp. 337-343.
[14] Letter from Illinois Chapter of the American Academy of Pediatrics to lawmakers
[15] https://www.famjustice.org/medical-mimics-of-abuse