



Rep. Elizabeth Coulson

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1 AMENDMENT TO HOUSE BILL 3075

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3075 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Developmental Disability Institutional Safety Act or Brian's  
6 Law.

7 Section 5. Legislative Findings. The General Assembly  
8 finds all of the following:

9 (a) Despite the national trend toward community  
10 integration of people with disabilities, the State of Illinois  
11 ranks 51st in the nation in funding for community-based  
12 services for people with developmental disabilities in  
13 settings of 6 or fewer individuals.

14 (b) Illinois continues to rely heavily upon large,  
15 congregate, residential facilities for the long-term care of  
16 people with developmental disabilities.

1           (c) There is a large body of evidence documenting that  
2 large, congregate settings for people with disabilities create  
3 a culture of abuse and neglect that victimizes our society's  
4 most vulnerable members and also creates an environment that  
5 marginalizes people with disabilities, inhibits their  
6 integration within society, and fosters dependence.

7           (d) Equip for Equality is the organization designated to  
8 implement the federally mandated Protection and Advocacy (P&A)  
9 System for people with disabilities in Illinois.

10          (e) The Abuse Investigation Unit of Equip for Equality has  
11 investigated the deaths of individuals with developmental  
12 disabilities in State-run developmental disability  
13 institutions in Illinois, including the death of Brian Kent at  
14 the Ann M. Kiley Center in Waukegan, Illinois on October 30,  
15 2002.

16          (f) Equip for Equality's Abuse Investigation Unit has  
17 issued a public report regarding its investigation of the death  
18 of Brian Kent and others, entitled "Life and Death in  
19 State-Operated Developmental Disability Institutions".

20          (g) The substandard medical care and treatment cited in  
21 that report necessitate that immediate action be taken to  
22 prevent further injuries to or deaths of individuals residing  
23 in those institutions.

24          Section 10. Independent interdisciplinary teams of  
25 monitors.

1           (a) The Illinois Department of Human Services and the  
2 Illinois Department of Public Health shall develop and install  
3 independent interdisciplinary teams of monitors to ensure the  
4 safety and well being of the individuals residing at each  
5 State-operated developmental disability institution.

6           (b) The interdisciplinary monitoring teams shall be  
7 composed of nurses, social workers, psychologists, and quality  
8 assurance professionals with expertise in addressing the  
9 quality of nursing care and treatment.

10          (c) The interdisciplinary monitoring teams shall conduct a  
11 minimum of 2 unannounced site visits to each of the  
12 State-operated developmental disability institutions each  
13 quarter. However, additional site visits may be made as  
14 circumstances warrant. The teams shall monitor and observe  
15 conditions within and around the residential units, review  
16 relevant records, including injury reports, and conduct random  
17 audits of clinical files and reports of abuse and neglect at  
18 these institutions.

19          (d) The interdisciplinary monitoring teams shall produce  
20 quarterly reports of their observations and provide those  
21 reports to the Departments of Human Services and Public Health  
22 as well as to Equip for Equality. The Departments of Human  
23 Services and Public Health shall develop and implement  
24 appropriate action plans in response to those reports to ensure  
25 that individuals under the care of these institutions are safe  
26 and receive quality services and medical care.

1           Section 15. Independent team of medical experts.

2           (a) The Departments of Human Services and Public Health  
3 shall develop an independent team of medical experts from the  
4 private sector, including forensic pathologists, doctors, and  
5 nurses, to examine all deaths at State-operated developmental  
6 disability institutions.

7           (b) The independent team of medical experts shall examine  
8 the clinical records of all individuals who have died while  
9 under the care of a State-operated developmental disability  
10 institution and review all actions taken by the institution or  
11 other State agencies to address the cause or causes of death  
12 and the adequacy of medical care and treatment.

13           (c) The independent team shall produce written findings and  
14 provide those findings to the Departments of Human Services and  
15 Public Health as well as to Equip for Equality in order to  
16 prevent further injuries and deaths.

17           Section 20. Plans of prevention. Within 90 days after the  
18 completion of an investigation into the death of an individual  
19 residing at a State-run developmental disability institution  
20 by the Office of Inspector General or the Illinois Department  
21 of State Police, the Departments of Human Services and Public  
22 Health, in conjunction with the State-operated developmental  
23 disability institutions' administrators and medical directors,  
24 shall develop a plan of prevention to ensure that similar

1 deaths do not occur at State-operated developmental disability  
2 institutions.

3 Section 25. Rights information. The Department of Human  
4 Services shall ensure that individuals with disabilities and  
5 their guardians and families receive sufficient information  
6 regarding their rights, including the right to be safe, the  
7 right to be free of abuse and neglect, and the right to receive  
8 quality services. The Department shall provide this  
9 information in order to allow individuals with developmental  
10 disabilities and their families to make informed decisions  
11 regarding the provision of services that can meet the  
12 individual's wants and needs.

13 Section 30. The Abused and Neglected Long Term Care  
14 Facility Residents Reporting Act is amended by changing Section  
15 3 as follows:

16 (210 ILCS 30/3) (from Ch. 111 1/2, par. 4163)

17 Sec. 3. As used in this Act unless the context otherwise  
18 requires:

19 a. "Department" means the Department of Public Health of  
20 the State of Illinois.

21 b. "Resident" means a person residing in and receiving  
22 personal care from a long term care facility, or residing in a  
23 mental health facility or developmental disability facility as

1 defined in the Mental Health and Developmental Disabilities  
2 Code.

3 c. "Long term care facility" has the same meaning ascribed  
4 to such term in the Nursing Home Care Act, except that the term  
5 as used in this Act shall include any mental health facility or  
6 developmental disability facility as defined in the Mental  
7 Health and Developmental Disabilities Code.

8 d. "Abuse" means (i) any physical injury, sexual abuse, or  
9 mental injury inflicted on a resident other than by accidental  
10 means or (ii) inadequate medical care that, regardless of the  
11 final cause of death, compromises an individual's health or  
12 leads to serious medical consequences followed by the  
13 individual's death.

14 e. "Neglect" means (i) a failure in a long term care  
15 facility to provide adequate medical or personal care or  
16 maintenance, which failure results in physical or mental injury  
17 to a resident or in the deterioration of a resident's physical  
18 or mental condition or (ii) the failure to follow medical and  
19 personal care protocols, such as dietary restrictions,  
20 regardless of whether that failure causes injury.

21 f. "Protective services" means services provided to a  
22 resident who has been abused or neglected, which may include,  
23 but are not limited to alternative temporary institutional  
24 placement, nursing care, counseling, other social services  
25 provided at the nursing home where the resident resides or at  
26 some other facility, personal care and such protective services

1 of voluntary agencies as are available.

2 g. Unless the context otherwise requires, direct or  
3 indirect references in this Act to the programs, personnel,  
4 facilities, services, service providers, or service recipients  
5 of the Department of Human Services shall be construed to refer  
6 only to those programs, personnel, facilities, services,  
7 service providers, or service recipients that pertain to the  
8 Department of Human Services' mental health and developmental  
9 disabilities functions.

10 (Source: P.A. 89-507, eff. 7-1-97.)".