



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

SB3559

Introduced 2/9/2024, by Sen. Lakesia Collins

#### SYNOPSIS AS INTRODUCED:

210 ILCS 45/3-810

Amends the Nursing Home Care Act. Provides that a facility shall not take any retaliatory action against a resident of the facility because the resident (1) complains, discloses, or threatens to disclose to a supervisor, a public body, or any other person an activity, inaction, policy, or practice implemented by a facility that the resident reasonably believes is in violation of a law or rule, or regulation or that the resident believes to be problematic; (2) provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by a nursing home administrator; (3) assists or participates in a proceeding to enforce the provisions of the Act; (4) seeks assistance for himself or herself or others to transition to independent living or another setting outside of their current nursing home; (5) makes a request of the facility related to the resident's care; (6) becomes a member of a resident council, resident union, or similar organization; or (7) takes any other good faith action in support of any other right or remedy provided by law. Describes remedies that may be awarded to a resident of a facility for a violation of these requirements. Authorizes a claim of retaliation under the Act to be filed in any court of competent jurisdiction or any administrative hearing process conducted by the State and its agencies or departments with jurisdiction to hear complaints by employees or residents against nursing homes.

LRB103 38350 CES 68485 b

1 AN ACT concerning regulation.

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

4 Section 5. The Nursing Home Care Act is amended by  
5 changing Section 3-810 as follows:

6 (210 ILCS 45/3-810)

7 Sec. 3-810. Whistleblower protection.

8 (a) In this Section, "retaliatory action" means (1) the  
9 reprimand, discharge, suspension, demotion, denial of  
10 promotion or transfer, or change in the terms and conditions  
11 of employment of any employee of a facility that is taken in  
12 retaliation for the employee's involvement in a protected  
13 activity as set forth in paragraphs (1) through (3) of  
14 subsection (b); or (2) reduced access to services, neglect,  
15 selective restrictions, adverse actions that interfere with  
16 the resident's quality of life at the facility, or threats of  
17 such actions that are taken in retaliation for any resident of  
18 a facility's involvement in a protected activity as set forth  
19 in paragraph (1) through (7) of subsection (c).

20 (b) A facility shall not take any retaliatory action  
21 against an employee of the facility, including a nursing home  
22 administrator, because the employee does any of the following:

23 (1) Discloses or threatens to disclose to a supervisor

1 or to a public body an activity, inaction, policy, or  
2 practice implemented by a facility that the employee  
3 reasonably believes is in violation of a law, rule, or  
4 regulation.

5 (2) Provides information to or testifies before any  
6 public body conducting an investigation, hearing, or  
7 inquiry into any violation of a law, rule, or regulation  
8 by a nursing home administrator.

9 (3) Assists or participates in a proceeding to enforce  
10 the provisions of this Act.

11 (b-5) A facility shall not take any retaliatory action  
12 against a resident of the facility because the resident does  
13 any of the following:

14 (1) complains, discloses, or threatens to disclose to  
15 a supervisor, a public body, or any other person an  
16 activity, inaction, policy, or practice implemented by a  
17 facility that the resident reasonably believes is in  
18 violation of a law or rule, or regulation or that the  
19 resident believes to be problematic;

20 (2) provides information to or testifies before any  
21 public body conducting an investigation, hearing, or  
22 inquiry into any violation of a law, rule, or regulation  
23 by a nursing home administrator;

24 (3) assists or participates in a proceeding to enforce  
25 the provisions of this Act;

26 (4) seeks assistance for himself or herself or others

1 to transition to independent living or another setting  
2 outside of their current nursing home;

3 (5) makes a request of the facility related to the  
4 resident's care;

5 (6) becomes a member of a resident council, resident  
6 union, or similar organization; or

7 (7) takes any other good faith action in support of  
8 any other right or remedy provided by law.

9 (c) A violation of this Section may be established only  
10 upon a finding that (i) the employee of the facility engaged in  
11 conduct described in subsection (b) of this Section and this  
12 conduct was a contributing factor in the retaliatory action  
13 alleged by the employee; or and (ii) the resident of the  
14 facility engaged in conduct described in subsection (c) of  
15 this Section and this conduct was a contributing factor in the  
16 retaliatory action alleged by the resident. A resident or  
17 employee may allege retaliation as a prima facie case of  
18 retaliation, which can be overcome by the facility, within one  
19 year after a resident or employee engages in conduct described  
20 in subsections (b) or (c) ~~this conduct was a contributing~~  
21 ~~factor in the retaliatory action alleged by the employee.~~  
22 There is no violation of this Section, however, if the  
23 facility demonstrates by clear and convincing evidence that it  
24 would have taken the same unfavorable personnel action in the  
25 absence of that conduct.

26 (d) The employee of the facility may be awarded all

1 remedies necessary to make the employee whole and to prevent  
2 future violations of this Section. Remedies imposed by the  
3 court may include, but are not limited to, all of the  
4 following:

5 (1) Reinstatement of the employee to either the same  
6 position held before the retaliatory action or to an  
7 equivalent position.

8 (2) Two times the amount of back pay.

9 (3) Interest on the back pay.

10 (4) Reinstatement of full fringe benefits and  
11 seniority rights.

12 (5) Payment of reasonable costs and attorney's fees.

13 (d-5) The resident of the facility may be awarded all  
14 remedies necessary to make the resident whole and prevent  
15 future violations of this Section. Remedies imposed by the  
16 court or other administrative body with appropriate  
17 jurisdiction may include, but are not limited to, all of the  
18 following:

19 (1) injunctive relief;

20 (2) 2 times the amount of the facility's monthly  
21 billing amount for that resident; and

22 (3) payment of reasonable costs and attorney's fees.

23 (d-10) A claim of retaliation under this Act may be filed  
24 in any court of competent jurisdiction or any administrative  
25 hearing process conducted by the State and its agencies or  
26 departments with jurisdiction to hear complaints by employees

1 or residents against nursing homes.

2 (e) Nothing in this Section shall be deemed to diminish  
3 the rights, privileges, or remedies of an employee of a  
4 facility under any other federal or State law, rule, or  
5 regulation or under any employment contract.

6 (Source: P.A. 96-1372, eff. 7-29-10.)