

1 AN ACT concerning health facilities.

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 Long Term Care Facility
5 Residents Reporting Act is amended by changing Sections 6.2 and
6 10 as follows:

7 (210 ILCS 30/6.2) (from Ch. 111 1/2, par. 4166.2)

8 Sec. 6.2. Inspector General.

9 (a) The Governor shall appoint, and the Senate shall
10 confirm, an Inspector General. The Inspector General shall be
11 appointed for a term of 4 years and shall function within the
12 Department of Human Services and report to the Secretary of
13 Human Services and the Governor. The Inspector General shall
14 function independently within the Department of Human Services
15 with respect to the operations of the office, including the
16 performance of investigations and issuance of findings and
17 recommendations. The appropriation for the Office of Inspector
18 General shall be separate from the overall appropriation for
19 the Department of Human Services. The Inspector General shall
20 investigate reports of suspected abuse or neglect (as those
21 terms are defined in Section 3 of this Act) of patients or
22 residents in any mental health or developmental disabilities
23 facility operated by the Department of Human Services and shall
24 have authority to investigate and take immediate action on
25 reports of abuse or neglect of recipients, whether patients or
26 residents, in any mental health or developmental disabilities
27 facility or program that is licensed or certified by the
28 Department of Human Services (as successor to the Department of
29 Mental Health and Developmental Disabilities) or that is funded
30 by the Department of Human Services (as successor to the
31 Department of Mental Health and Developmental Disabilities)
32 and is not licensed or certified by any agency of the State. At

1 the specific, written request of an agency of the State other
2 than the Department of Human Services (as successor to the
3 Department of Mental Health and Developmental Disabilities),
4 the Inspector General may cooperate in investigating reports of
5 abuse and neglect of persons with mental illness or persons
6 with developmental disabilities. The Inspector General shall
7 have no supervision over or involvement in routine,
8 programmatic, licensure, or certification operations of the
9 Department of Human Services or any of its funded agencies.

10 The Inspector General shall promulgate rules establishing
11 minimum requirements for reporting allegations of abuse and
12 neglect and initiating, conducting, and completing
13 investigations. The promulgated rules shall clearly set forth
14 that in instances where 2 or more State agencies could
15 investigate an allegation of abuse or neglect, the Inspector
16 General shall not conduct an investigation that is redundant to
17 an investigation conducted by another State agency. The rules
18 shall establish criteria for determining, based upon the nature
19 of the allegation, the appropriate method of investigation,
20 which may include, but need not be limited to, site visits,
21 telephone contacts, or requests for written responses from
22 agencies. The rules shall also clarify how the Office of the
23 Inspector General shall interact with the licensing unit of the
24 Department of Human Services in investigations of allegations
25 of abuse or neglect. Any allegations or investigations of
26 reports made pursuant to this Act shall remain confidential
27 until a final report is completed. The resident or patient who
28 allegedly was abused or neglected and his or her legal guardian
29 shall be informed by the facility or agency of the report of
30 alleged abuse or neglect. Final reports regarding
31 unsubstantiated or unfounded allegations shall remain
32 confidential, except that final reports may be disclosed
33 pursuant to Section 6 of this Act.

34 When the Office of the Inspector General has substantiated
35 a case of abuse or neglect, the Inspector General shall include
36 in the final report any mitigating or aggravating circumstances

1 that were identified during the investigation. Upon
2 determination that a report of neglect is substantiated, the
3 Inspector General shall then determine whether such neglect
4 rises to the level of egregious neglect.

5 (b) The Inspector General shall within 24 hours after
6 receiving a report of suspected abuse or neglect determine
7 whether the evidence indicates that any possible criminal act
8 has been committed. If he or she determines that a possible
9 criminal act has been committed, or that special expertise is
10 required in the investigation, he or she shall immediately
11 notify the Department of State Police or the appropriate law
12 enforcement agency. The Department of State Police shall
13 investigate any report from a State-operated facility
14 indicating a possible murder, rape, or other felony. All
15 investigations conducted by the Inspector General shall be
16 conducted in a manner designed to ensure the preservation of
17 evidence for possible use in a criminal prosecution.

18 (b-5) The Inspector General shall make a determination to
19 accept or reject a preliminary report of the investigation of
20 alleged abuse or neglect based on established investigative
21 procedures. Notice of the Inspector General's determination
22 must be given to the person who claims to be the victim of the
23 abuse or neglect, to the person or persons alleged to have been
24 responsible for abuse or neglect, and to the facility or
25 agency. The facility or agency or the person or persons alleged
26 to have been responsible for the abuse or neglect and the
27 person who claims to be the victim of the abuse or neglect may
28 request clarification or reconsideration based on additional
29 information. For cases where the allegation of abuse or neglect
30 is substantiated, the Inspector General shall require the
31 facility or agency to submit a written response. The written
32 response from a facility or agency shall address in a concise
33 and reasoned manner the actions that the agency or facility
34 will take or has taken to protect the resident or patient from
35 abuse or neglect, prevent reoccurrences, and eliminate
36 problems identified and shall include implementation and

1 completion dates for all such action.

2 (c) The Inspector General shall, within 10 calendar days
3 after the transmittal date of a completed investigation where
4 abuse or neglect is substantiated or administrative action is
5 recommended, provide a complete report on the case to the
6 Secretary of Human Services and to the agency in which the
7 abuse or neglect is alleged to have happened. The complete
8 report shall include a written response from the agency or
9 facility operated by the State to the Inspector General that
10 addresses in a concise and reasoned manner the actions that the
11 agency or facility will take or has taken to protect the
12 resident or patient from abuse or neglect, prevent
13 reoccurrences, and eliminate problems identified and shall
14 include implementation and completion dates for all such
15 action. The Secretary of Human Services shall accept or reject
16 the response and establish how the Department will determine
17 whether the facility or program followed the approved response.
18 The Secretary may require Department personnel to visit the
19 facility or agency for training, technical assistance,
20 programmatic, licensure, or certification purposes.
21 Administrative action, including sanctions, may be applied
22 should the Secretary reject the response or should the facility
23 or agency fail to follow the approved response. Within 30 days
24 after the Secretary has approved a response, the facility or
25 agency making the response shall provide an implementation
26 report to the Inspector General on the status of the corrective
27 action implemented. Within 60 days after the Secretary has
28 approved the response, the facility or agency shall send notice
29 of the completion of the corrective action or shall send an
30 updated implementation report. The facility or agency shall
31 continue sending updated implementation reports every 60 days
32 until the facility or agency sends a notice of the completion
33 of the corrective action. The Inspector General shall review
34 any implementation plan that takes more than 120 days. The
35 Inspector General shall monitor compliance through a random
36 review of completed corrective actions. This monitoring may

1 include, but need not be limited to, site visits, telephone
2 contacts, or requests for written documentation from the
3 facility or agency to determine whether the facility or agency
4 is in compliance with the approved response. The facility or
5 agency shall inform the resident or patient and the legal
6 guardian whether the reported allegation was substantiated,
7 unsubstantiated, or unfounded. There shall be an appeals
8 process for any person or agency that is subject to any action
9 based on a recommendation or recommendations.

10 (d) The Inspector General may recommend to the Departments
11 of Public Health and Human Services sanctions to be imposed
12 against mental health and developmental disabilities
13 facilities under the jurisdiction of the Department of Human
14 Services for the protection of residents, including
15 appointment of on-site monitors or receivers, transfer or
16 relocation of residents, and closure of units. The Inspector
17 General may seek the assistance of the Attorney General or any
18 of the several State's attorneys in imposing such sanctions.
19 Whenever the Inspector General issues any recommendations to
20 the Secretary of Human Services, the Secretary shall provide a
21 written response.

22 (e) The Inspector General shall establish and conduct
23 periodic training programs for Department of Human Services
24 employees concerning the prevention and reporting of neglect
25 and abuse.

26 (f) The Inspector General shall at all times be granted
27 access to any mental health or developmental disabilities
28 facility operated by the Department of Human Services, shall
29 establish and conduct unannounced site visits to those
30 facilities at least once annually, and shall be granted access,
31 for the purpose of investigating a report of abuse or neglect,
32 to the records of the Department of Human Services and to any
33 facility or program funded by the Department of Human Services
34 that is subject under the provisions of this Section to
35 investigation by the Inspector General for a report of abuse or
36 neglect.

1 (g) Nothing in this Section shall limit investigations by
2 the Department of Human Services that may otherwise be required
3 by law or that may be necessary in that Department's capacity
4 as the central administrative authority responsible for the
5 operation of State mental health and developmental disability
6 facilities.

7 (g-5) After notice and an opportunity for a hearing that is
8 separate and distinct from the Office of the Inspector
9 General's appeals process as implemented under subsection (c)
10 of this Section, the Inspector General shall report to the
11 Department of Public Health's nurse aide registry under Section
12 3-206.01 of the Nursing Home Care Act the identity of
13 individuals against whom there has been a substantiated finding
14 of physical or sexual abuse or egregious neglect of a service
15 recipient.

16 Nothing in this subsection shall diminish or impair the
17 rights of a person who is a member of a collective bargaining
18 unit pursuant to the Illinois Public Labor Relations Act or
19 pursuant to any federal labor statute. An individual who is a
20 member of a collective bargaining unit as described above shall
21 not be reported to the Department of Public Health's nurse aide
22 registry until the exhaustion of that individual's grievance
23 and arbitration rights, or until 3 months after the initiation
24 of the grievance process, whichever occurs first, provided that
25 the Department of Human Services' hearing under subsection (c),
26 that is separate and distinct from the Office of the Inspector
27 General's appeals process, has concluded. Notwithstanding
28 anything hereinafter or previously provided, if an action taken
29 by an employer against an individual as a result of the
30 circumstances that led to a finding of physical or sexual abuse
31 or egregious neglect is later overturned under a grievance or
32 arbitration procedure provided for in Section 8 of the Illinois
33 Public Labor Relations Act or under a collective bargaining
34 agreement, the report must be removed from the registry.

35 The Department of Human Services shall promulgate or amend
36 rules as necessary or appropriate to establish procedures for

1 reporting to the registry, including the definition of
2 egregious neglect, procedures for notice to the individual and
3 victim, appeal and hearing procedures, and petition for removal
4 of the report from the registry. The portion of the rules
5 pertaining to hearings shall provide that, at the hearing, both
6 parties may present written and oral evidence. The Department
7 shall be required to establish by a preponderance of the
8 evidence that the Office of the Inspector General's finding of
9 physical or sexual abuse or egregious neglect warrants
10 reporting to the Department of Public Health's nurse aide
11 registry under Section 3-206.01 of the Nursing Home Care Act.

12 Notice to the individual shall include a clear and concise
13 statement of the grounds on which the report to the registry is
14 based and notice of the opportunity for a hearing to contest
15 the report. The Department of Human Services shall provide the
16 notice by certified mail to the last known address of the
17 individual. The notice shall give the individual an opportunity
18 to contest the report in a hearing before the Department of
19 Human Services or to submit a written response to the findings
20 instead of requesting a hearing. If the individual does not
21 request a hearing or if after notice and a hearing the
22 Department of Human Services finds that the report is valid,
23 the finding shall be included as part of the registry, as well
24 as a brief statement from the reported individual if he or she
25 chooses to make a statement. The Department of Public Health
26 shall make available to the public information reported to the
27 registry. In a case of inquiries concerning an individual
28 listed in the registry, any information disclosed concerning a
29 finding of abuse or neglect shall also include disclosure of
30 the individual's brief statement in the registry relating to
31 the reported finding or include a clear and accurate summary of
32 the statement.

33 At any time after the report of the registry, an individual
34 may petition the Department of Human Services for removal from
35 the registry of the finding against him or her. Upon receipt of
36 such a petition, the Department of Human Services shall conduct

1 an investigation and hearing on the petition. Upon completion
2 of the investigation and hearing, the Department of Human
3 Services shall report the removal of the finding to the
4 registry unless the Department of Human Services determines
5 that removal is not in the public interest.

6 (Source: P.A. 92-358, eff. 8-15-01; 92-473, eff. 1-1-02;
7 92-651, eff. 7-11-02; 93-636, eff. 12-31-03.)

8 (210 ILCS 30/10) (from Ch. 111 1/2, par. 4170)

9 Sec. 10. If, during the investigation of a report made
10 pursuant to this Act, the Department obtains information
11 indicating possible criminal acts, the Department shall refer
12 the matter to the appropriate law enforcement agency or
13 agencies for further investigation or prosecution. The
14 Department shall make the entire file of its investigation
15 available to the appropriate law enforcement agencies.

16 With respect to reports of suspected abuse or neglect of
17 residents of facilities operated by the Department of Human
18 Services (as successor to the Department of Rehabilitation
19 Services) or recipients of services through any home,
20 institution, program or other entity licensed in whole or in
21 part by the Department of Human Services (as successor to the
22 Department of Rehabilitation Services), the Department shall
23 refer reports indicating possible criminal acts to the
24 Department of State Police or the appropriate law enforcement
25 agency for investigation.

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

27 Section 99. Effective date. This Act takes effect upon
28 becoming law.