

**SB3010**



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**SB3010**

Introduced 1/20/2006, by Sen. John J. Cullerton

**SYNOPSIS AS INTRODUCED:**

210 ILCS 30/6.2

from Ch. 111 1/2, par. 4166.2

Amends the Abused and Neglected Long Term Care Facility Residents Reporting Act. Provides that a person required to make reports of allegations of abuse or neglect under the Act or cause such reports to be made, as provided in rules, who willfully fails to comply with those reporting requirements is guilty of a Class A misdemeanor. Effective immediately.

LRB094 15526 DRJ 50725 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

**A BILL FOR**

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 Abused and Neglected Long Term Care Facility  
5 Residents Reporting Act is amended by changing Section 6.2 as  
6 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 A person required to make reports or cause reports to be  
35 made under this Section as set forth in 59 Illinois  
36 Administrative Code, Chapter I, Section 50, Part 50.20 who

1 willfully fails to comply with the reporting requirements is  
2 guilty of a Class A misdemeanor.

3 When the Office of the Inspector General has substantiated  
4 a case of abuse or neglect, the Inspector General shall include  
5 in the final report any mitigating or aggravating circumstances  
6 that were identified during the investigation. Upon  
7 determination that a report of neglect is substantiated, the  
8 Inspector General shall then determine whether such neglect  
9 rises to the level of egregious neglect.

10 (b) The Inspector General shall, within 24 hours after  
11 determining that a reported allegation of suspected abuse or  
12 neglect indicates that any possible criminal act has been  
13 committed or that special expertise is required in the  
14 investigation, immediately notify the Department of State  
15 Police or the appropriate law enforcement entity. The  
16 Department of State Police shall investigate any report from a  
17 State-operated facility indicating a possible murder, rape, or  
18 other felony. All investigations conducted by the Inspector  
19 General shall be conducted in a manner designed to ensure the  
20 preservation of evidence for possible use in a criminal  
21 prosecution.

22 (b-5) The Inspector General shall make a determination to  
23 accept or reject a preliminary report of the investigation of  
24 alleged abuse or neglect based on established investigative  
25 procedures. Notice of the Inspector General's determination  
26 must be given to the person who claims to be the victim of the  
27 abuse or neglect, to the person or persons alleged to have been  
28 responsible for abuse or neglect, and to the facility or  
29 agency. The facility or agency or the person or persons alleged  
30 to have been responsible for the abuse or neglect and the  
31 person who claims to be the victim of the abuse or neglect may  
32 request clarification or reconsideration based on additional  
33 information. For cases where the allegation of abuse or neglect  
34 is substantiated, the Inspector General shall require the  
35 facility or agency to submit a written response. The written  
36 response from a facility or agency shall address in a concise

1 and reasoned manner the actions that the agency or facility  
2 will take or has taken to protect the resident or patient from  
3 abuse or neglect, prevent reoccurrences, and eliminate  
4 problems identified and shall include implementation and  
5 completion dates for all such action.

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

1 of the corrective action. The Inspector General shall review  
2 any implementation plan that takes more than 120 days. The  
3 Inspector General shall monitor compliance through a random  
4 review of completed corrective actions. This monitoring may  
5 include, but need not be limited to, site visits, telephone  
6 contacts, or requests for written documentation from the  
7 facility or agency to determine whether the facility or agency  
8 is in compliance with the approved response. The facility or  
9 agency shall inform the resident or patient and the legal  
10 guardian whether the reported allegation was substantiated,  
11 unsubstantiated, or unfounded. There shall be an appeals  
12 process for any person or agency that is subject to any action  
13 based on a recommendation or recommendations.

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

26 (e) The Inspector General shall establish and conduct  
27 periodic training programs for Department of Human Services  
28 employees concerning the prevention and reporting of neglect  
29 and abuse.

30 (f) The Inspector General shall at all times be granted  
31 access to any mental health or developmental disabilities  
32 facility operated by the Department of Human Services, shall  
33 establish and conduct unannounced site visits to those  
34 facilities at least once annually, and shall be granted access,  
35 for the purpose of investigating a report of abuse or neglect,  
36 to the records of the Department of Human Services and to any

1 facility or program funded by the Department of Human Services  
2 that is subject under the provisions of this Section to  
3 investigation by the Inspector General for a report of abuse or  
4 neglect.

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

11 (g-5) After notice and an opportunity for a hearing that is  
12 separate and distinct from the Office of the Inspector  
13 General's appeals process as implemented under subsection (c)  
14 of this Section, the Inspector General shall report to the  
15 Department of Public Health's nurse aide registry under Section  
16 3-206.01 of the Nursing Home Care Act the identity of  
17 individuals against whom there has been a substantiated finding  
18 of physical or sexual abuse or egregious neglect of a service  
19 recipient.

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

1 Public Labor Relations Act or under a collective bargaining  
2 agreement, the report must be removed from the registry.

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

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



1           At any time after the report of the registry, an individual  
2           may petition the Department of Human Services for removal from  
3           the registry of the finding against him or her. Upon receipt of  
4           such a petition, the Department of Human Services shall conduct  
5           an investigation and hearing on the petition. Upon completion  
6           of the investigation and hearing, the Department of Human  
7           Services shall report the removal of the finding to the  
8           registry unless the Department of Human Services determines  
9           that removal is not in the public interest.

10          (Source: P.A. 93-636, eff. 12-31-03; 94-428, eff. 8-2-05.)

11           Section 99. Effective date. This Act takes effect upon  
12          becoming law.