

SB2806



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2806

Introduced 1/28/2010, by Sen. William Delgado

SYNOPSIS AS INTRODUCED:

210 ILCS 30/6

from Ch. 111 1/2, par. 4166

Amends the Abused and Neglected Long Term Care Facility Residents Reporting Act. With respect to investigations of reports of suspected abuse or neglect of residents of mental health and developmental disabilities institutions under the jurisdiction of the Department of Human Services, provides that a copy of a final investigative report that includes a substantiated finding of abuse, neglect, or financial exploitation shall not be distributed by the Department of Public Health to the Department of Financial and Professional Regulation until all reconsideration and appeals processes have been exhausted. Effective immediately.

LRB096 17712 KTG 33077 b

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 as
6 follows:

7 (210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

8 (Text of Section before amendment by P.A. 96-339)

9 Sec. 6. All reports of suspected abuse or neglect made
10 under this Act shall be made immediately by telephone to the
11 Department's central register established under Section 14 on
12 the single, State-wide, toll-free telephone number established
13 under Section 13, or in person or by telephone through the
14 nearest Department office. No long term care facility
15 administrator, agent or employee, or any other person, shall
16 screen reports or otherwise withhold any reports from the
17 Department, and no long term care facility, department of State
18 government, or other agency shall establish any rules,
19 criteria, standards or guidelines to the contrary. Every long
20 term care facility, department of State government and other
21 agency whose employees are required to make or cause to be made
22 reports under Section 4 shall notify its employees of the
23 provisions of that Section and of this Section, and provide to

1 the Department documentation that such notification has been
2 given. The Department of Human Services shall train all of its
3 mental health and developmental disabilities employees in the
4 detection and reporting of suspected abuse and neglect of
5 residents. Reports made to the central register through the
6 State-wide, toll-free telephone number shall be transmitted to
7 appropriate Department offices and municipal health
8 departments that have responsibility for licensing long term
9 care facilities under the Nursing Home Care Act. All reports
10 received through offices of the Department shall be forwarded
11 to the central register, in a manner and form described by the
12 Department. The Department shall be capable of receiving
13 reports of suspected abuse and neglect 24 hours a day, 7 days a
14 week. Reports shall also be made in writing deposited in the
15 U.S. mail, postage prepaid, within 24 hours after having
16 reasonable cause to believe that the condition of the resident
17 resulted from abuse or neglect. Such reports may in addition be
18 made to the local law enforcement agency in the same manner.
19 However, in the event a report is made to the local law
20 enforcement agency, the reporter also shall immediately so
21 inform the Department. The Department shall initiate an
22 investigation of each report of resident abuse and neglect
23 under this Act, whether oral or written, as provided for in
24 Section 3-702 of the Nursing Home Care Act, except that reports
25 of abuse which indicate that a resident's life or safety is in
26 imminent danger shall be investigated within 24 hours of such

1 report. The Department may delegate to law enforcement
2 officials or other public agencies the duty to perform such
3 investigation.

4 With respect to investigations of reports of suspected
5 abuse or neglect of residents of mental health and
6 developmental disabilities institutions under the jurisdiction
7 of the Department of Human Services, the Department shall
8 transmit copies of such reports to the Department of State
9 Police, the Department of Human Services, and the Inspector
10 General appointed under Section 1-17 of the Department of Human
11 Services Act. If the Department receives a report of suspected
12 abuse or neglect of a recipient of services as defined in
13 Section 1-123 of the Mental Health and Developmental
14 Disabilities Code, the Department shall transmit copies of such
15 report to the Inspector General and the Directors of the
16 Guardianship and Advocacy Commission and the agency designated
17 by the Governor pursuant to the Protection and Advocacy for
18 Developmentally Disabled Persons Act. When requested by the
19 Director of the Guardianship and Advocacy Commission, the
20 agency designated by the Governor pursuant to the Protection
21 and Advocacy for Developmentally Disabled Persons Act, or the
22 Department of Financial and Professional Regulation, the
23 Department, the Department of Human Services and the Department
24 of State Police shall make available a copy of the final
25 investigative report regarding investigations conducted by
26 their respective agencies on incidents of suspected abuse or

1 neglect of residents of mental health and developmental
2 disabilities institutions or individuals receiving services at
3 community agencies under the jurisdiction of the Department of
4 Human Services. A copy of a final investigative report that
5 includes a substantiated finding of abuse, neglect, or
6 financial exploitation shall not be distributed to the
7 Department of Financial and Professional Regulation until all
8 reconsideration and appeals processes have been exhausted.

9 Such final investigative report shall not contain witness
10 statements, investigation notes, draft summaries, results of
11 lie detector tests, investigative files or other raw data which
12 was used to compile the final investigative report.
13 Specifically, the final investigative report of the Department
14 of State Police shall mean the Director's final transmittal
15 letter. The Department of Human Services shall also make
16 available a copy of the results of disciplinary proceedings of
17 employees involved in incidents of abuse or neglect to the
18 Directors. All identifiable information in reports provided
19 shall not be further disclosed except as provided by the Mental
20 Health and Developmental Disabilities Confidentiality Act.
21 Nothing in this Section is intended to limit or construe the
22 power or authority granted to the agency designated by the
23 Governor pursuant to the Protection and Advocacy for
24 Developmentally Disabled Persons Act, pursuant to any other
25 State or federal statute.

26 With respect to investigations of reported resident abuse

1 or neglect, the Department shall effect with appropriate law
2 enforcement agencies formal agreements concerning methods and
3 procedures for the conduct of investigations into the criminal
4 histories of any administrator, staff assistant or employee of
5 the nursing home or other person responsible for the residents
6 care, as well as for other residents in the nursing home who
7 may be in a position to abuse, neglect or exploit the patient.
8 Pursuant to the formal agreements entered into with appropriate
9 law enforcement agencies, the Department may request
10 information with respect to whether the person or persons set
11 forth in this paragraph have ever been charged with a crime and
12 if so, the disposition of those charges. Unless the criminal
13 histories of the subjects involved crimes of violence or
14 resident abuse or neglect, the Department shall be entitled
15 only to information limited in scope to charges and their
16 dispositions. In cases where prior crimes of violence or
17 resident abuse or neglect are involved, a more detailed report
18 can be made available to authorized representatives of the
19 Department, pursuant to the agreements entered into with
20 appropriate law enforcement agencies. Any criminal charges and
21 their disposition information obtained by the Department shall
22 be confidential and may not be transmitted outside the
23 Department, except as required herein, to authorized
24 representatives or delegates of the Department, and may not be
25 transmitted to anyone within the Department who is not duly
26 authorized to handle resident abuse or neglect investigations.

1 The Department shall effect formal agreements with
2 appropriate law enforcement agencies in the various counties
3 and communities to encourage cooperation and coordination in
4 the handling of resident abuse or neglect cases pursuant to
5 this Act. The Department shall adopt and implement methods and
6 procedures to promote statewide uniformity in the handling of
7 reports of abuse and neglect under this Act, and those methods
8 and procedures shall be adhered to by personnel of the
9 Department involved in such investigations and reporting. The
10 Department shall also make information required by this Act
11 available to authorized personnel within the Department, as
12 well as its authorized representatives.

13 The Department shall keep a continuing record of all
14 reports made pursuant to this Act, including indications of the
15 final determination of any investigation and the final
16 disposition of all reports.

17 The Department shall report annually to the General
18 Assembly on the incidence of abuse and neglect of long term
19 care facility residents, with special attention to residents
20 who are mentally disabled. The report shall include but not be
21 limited to data on the number and source of reports of
22 suspected abuse or neglect filed under this Act, the nature of
23 any injuries to residents, the final determination of
24 investigations, the type and number of cases where abuse or
25 neglect is determined to exist, and the final disposition of
26 cases.

1 (Source: P.A. 94-852, eff. 6-13-06; 95-545, eff. 8-28-07.)

2 (Text of Section after amendment by P.A. 96-339)

3 Sec. 6. All reports of suspected abuse or neglect made
4 under this Act shall be made immediately by telephone to the
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7 under Section 13, or in person or by telephone through the
8 nearest Department office. No long term care facility
9 administrator, agent or employee, or any other person, shall
10 screen reports or otherwise withhold any reports from the
11 Department, and no long term care facility, department of State
12 government, or other agency shall establish any rules,
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14 term care facility, department of State government and other
15 agency whose employees are required to make or cause to be made
16 reports under Section 4 shall notify its employees of the
17 provisions of that Section and of this Section, and provide to
18 the Department documentation that such notification has been
19 given. The Department of Human Services shall train all of its
20 mental health and developmental disabilities employees in the
21 detection and reporting of suspected abuse and neglect of
22 residents. Reports made to the central register through the
23 State-wide, toll-free telephone number shall be transmitted to
24 appropriate Department offices and municipal health
25 departments that have responsibility for licensing long term

1 care facilities under the Nursing Home Care Act or the MR/DD
2 Community Care Act. All reports received through offices of the
3 Department shall be forwarded to the central register, in a
4 manner and form described by the Department. The Department
5 shall be capable of receiving reports of suspected abuse and
6 neglect 24 hours a day, 7 days a week. Reports shall also be
7 made in writing deposited in the U.S. mail, postage prepaid,
8 within 24 hours after having reasonable cause to believe that
9 the condition of the resident resulted from abuse or neglect.
10 Such reports may in addition be made to the local law
11 enforcement agency in the same manner. However, in the event a
12 report is made to the local law enforcement agency, the
13 reporter also shall immediately so inform the Department. The
14 Department shall initiate an investigation of each report of
15 resident abuse and neglect under this Act, whether oral or
16 written, as provided for in Section 3-702 of the Nursing Home
17 Care Act or Section 3-702 of the MR/DD Community Care Act,
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19 life or safety is in imminent danger shall be investigated
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15 suspected abuse or neglect filed under this Act, the nature of
16 any injuries to residents, the final determination of
17 investigations, the type and number of cases where abuse or
18 neglect is determined to exist, and the final disposition of
19 cases.

20 (Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10.)

21 Section 95. No acceleration or delay. Where this Act makes
22 changes in a statute that is represented in this Act by text
23 that is not yet or no longer in effect (for example, a Section
24 represented by multiple versions), the use of that text does
25 not accelerate or delay the taking effect of (i) the changes

1 made by this Act or (ii) provisions derived from any other
2 Public Act.

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.