

1 AMENDMENT TO SENATE BILL 1504

2 AMENDMENT NO. _____. Amend Senate Bill 1504 by deleting
3 everything after the enacting clause and replacing it with
4 the following:

5 "Section 5. The Mental Health and Developmental
6 Disabilities Administrative Act is amended by adding Section
7 7.3 as follows:

8 (20 ILCS 1705/7.3 new)

9 Section 7.3. Nurse aide registry; finding of abuse or
10 neglect. The Department shall require that no facility,
11 service agency, or support agency providing mental health or
12 developmental disability services that is licensed,
13 certified, operated, or funded by the Department shall employ
14 a person, in any capacity, who is identified by the nurse
15 aide registry as having been subject of a substantiated
16 finding of abuse or neglect of a service recipient. The
17 Department shall establish and maintain such rules as are
18 necessary or appropriate to effectuate the intent of this
19 Section. The provisions of this Section shall not apply to
20 any facility, service agency, or support agency licensed or
21 certified by a State agency other than the Department, unless
22 operated by the Department of Human Services.

1 Section 10. The Abused and Neglected Long Term Care
2 Facility Residents Reporting Act is amended by changing
3 Section 6.2 as follows:

4 (210 ILCS 30/6.2) (from Ch. 111 1/2, par. 4166.2)
5 (Section scheduled to be repealed on January 1, 2002)

6 Sec. 6.2. Inspector General.

7 (a) The Governor shall appoint, and the Senate shall
8 confirm, an Inspector General who shall function within the
9 Department of Human Services and report to the Secretary of
10 Human Services and the Governor. The Inspector General shall
11 investigate reports of suspected abuse or neglect (as those
12 terms are defined in Section 3 of this Act) of patients or
13 residents in any mental health or developmental disabilities
14 facility operated by the Department of Human Services and
15 shall have authority to investigate and take immediate action
16 on reports of abuse or neglect of recipients, whether
17 patients or residents, in any mental health or developmental
18 disabilities facility or program that is licensed or
19 certified by the Department of Human Services (as successor
20 to the Department of Mental Health and Developmental
21 Disabilities) or that is funded by the Department of Human
22 Services (as successor to the Department of Mental Health and
23 Developmental Disabilities) and is not licensed or certified
24 by any agency of the State. At the specific, written request
25 of an agency of the State other than the Department of Human
26 Services (as successor to the Department of Mental Health and
27 Developmental Disabilities), the Inspector General may
28 cooperate in investigating reports of abuse and neglect of
29 persons with mental illness or persons with developmental
30 disabilities. The Inspector General shall have no
31 supervision over or involvement in routine, programmatic,
32 licensure, or certification operations of the Department of
33 Human Services or any of its funded agencies.

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

25 The Inspector General shall be appointed for a term of 4
26 years.

27 When determining if a report of abuse or neglect should
28 be substantiated or unsubstantiated the Office of the
29 Inspector General shall take into account any mitigating or
30 aggravating circumstances when indicated. The Inspector
31 General shall promulgate rules to establish criteria for
32 determining mitigating or aggravating circumstances when
33 determining if a report of abuse or neglect should be
34 substantiated or unsubstantiated.

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

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

32 (c) The Inspector General shall, within 10 calendar days
33 after the transmittal date of a completed investigation where
34 abuse or neglect is substantiated or administrative action is

1 recommended, provide a complete report on the case to the
2 Secretary of Human Services and to the agency in which the
3 abuse or neglect is alleged to have happened. The complete
4 report shall include a written response from the agency or
5 facility operated by the State to the Inspector General that
6 addresses in a concise and reasoned manner the actions that
7 the agency or facility will take or has taken to protect the
8 resident or patient from abuse or neglect, prevent
9 reoccurrences, and eliminate problems identified and shall
10 include implementation and completion dates for all such
11 action. The Secretary of Human Services shall accept or
12 reject the response and establish how the Department will
13 determine whether the facility or program followed the
14 approved response. The Secretary may require Department
15 personnel to visit the facility or agency for training,
16 technical assistance, programmatic, licensure, or
17 certification purposes. Administrative action, including
18 sanctions, may be applied should the Secretary reject the
19 response or should the facility or agency fail to follow the
20 approved response. The facility or agency shall inform the
21 resident or patient and the legal guardian whether the
22 reported allegation was substantiated, unsubstantiated, or
23 unfounded. There shall be an appeals process for any person
24 or agency that is subject to any action based on a
25 recommendation or recommendations.

26 (d) The Inspector General may recommend to the
27 Departments of Public Health and Human Services sanctions to
28 be imposed against mental health and developmental
29 disabilities facilities under the jurisdiction of the
30 Department of Human Services for the protection of residents,
31 including appointment of on-site monitors or receivers,
32 transfer or relocation of residents, and closure of units.
33 The Inspector General may seek the assistance of the Attorney
34 General or any of the several State's attorneys in imposing

1 such sanctions.

2 (e) The Inspector General shall establish and conduct
3 periodic training programs for Department employees
4 concerning the prevention and reporting of neglect and abuse.

5 (f) The Inspector General shall at all times be granted
6 access to any mental health or developmental disabilities
7 facility operated by the Department, shall establish and
8 conduct unannounced site visits to those facilities at least
9 once annually, and shall be granted access, for the purpose
10 of investigating a report of abuse or neglect, to any
11 facility or program funded by the Department that is subject
12 under the provisions of this Section to investigation by the
13 Inspector General for a report of abuse or neglect.

14 (g) Nothing in this Section shall limit investigations
15 by the Department of Human Services that may otherwise be
16 required by law or that may be necessary in that Department's
17 capacity as the central administrative authority responsible
18 for the operation of State mental health and developmental
19 disability facilities.

20 (g-5) After notice and an opportunity for a hearing that
21 is separate and distinct from the Office of the Inspector
22 General's appeals process as implemented under subsection (c)
23 of this Section, the Inspector General shall report to the
24 Department of Public Health's nurse aide registry under
25 Section 3-206.01 of the Nursing Home Care Act the identity of
26 individuals against whom there has been a substantiated
27 finding of abuse or neglect of a service recipient.

28 Nothing in this subsection shall diminish or impair the
29 rights of a person who is a member of a collective bargaining
30 unit pursuant to the Illinois Public Labor Relations Act or
31 pursuant to any federal labor statute. Notwithstanding
32 anything hereinafter or previously provided, if an
33 individual is terminated by an employer as the result of the
34 circumstances that led to a finding of abuse or neglect and

1 that finding is later overturned under a grievance and/or
2 arbitration procedure provided for in Section 8 of the
3 Illinois Public Labor Relations Act or under a comparable
4 provision in another labor statute applicable to that person,
5 the report must be removed from the registry.

6 The Department of Human Services shall promulgate or
7 amend rules as necessary or appropriate to establish
8 procedures for reporting to the registry, including
9 procedures for notice to the individual, appeal and hearing,
10 and petition for removal of the report from the registry. The
11 portion of the rules pertaining to hearings shall provide
12 that, at the hearing, both parties may present written and
13 oral evidence.

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

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

8 (h) This Section is repealed on January 1, 2002.
9 (Source: P.A. 90-252, eff. 7-29-97; 90-512, eff. 8-22-97;
10 90-655, eff. 7-30-98; 91-169, eff. 7-16-99.)

11 Section 15. The Nursing Home Care Act is amended by
12 changing Section 3-206.1 as follows:

13 (210 ILCS 45/3-206.01) (from Ch. 111 1/2, par.
14 4153-206.01)

15 Sec. 3-206.01. Nurse aide registry.

16 (a) The Department shall establish and maintain a
17 registry of all individuals who have satisfactorily completed
18 the training required by Section 3-206. The registry shall
19 include the name of the nursing assistant, habilitation aide,
20 or child care aide, his or her current address, Social
21 Security number, and the date and location of the training
22 course completed by the individual, and the date of the
23 individual's last criminal records check. Any individual
24 placed on the registry is required to inform the Department
25 of any change of address within 30 days. A facility shall not
26 employ an individual as a nursing assistant, habilitation
27 aide, or child care aide unless the facility has inquired of
28 the Department as to information in the registry concerning
29 the individual and shall not employ anyone not on the
30 registry unless the individual is enrolled in a training
31 program under paragraph (5) of subsection (a) of Section
32 3-206 of this Act.

1 If the Department finds that a nursing assistant,
2 habilitation aide, or child care aide has abused a resident,
3 neglected a resident, or misappropriated resident property in
4 a facility, the Department shall notify the individual of
5 this finding by certified mail sent to the address contained
6 in the registry. The notice shall give the individual an
7 opportunity to contest the finding in a hearing before the
8 Department or to submit a written response to the findings in
9 lieu of requesting a hearing. If, after a hearing or if the
10 individual does not request a hearing, the Department finds
11 that the individual abused a resident, neglected a resident,
12 or misappropriated resident property in a facility, the
13 finding shall be included as part of the registry as well as
14 a brief statement from the individual, if he or she chooses
15 to make such a statement. The Department shall make
16 information in the registry available to the public. In the
17 case of inquiries to the registry concerning an individual
18 listed in the registry, any information disclosed concerning
19 such a finding shall also include disclosure of any statement
20 in the registry relating to the finding or a clear and
21 accurate summary of the statement.

22 (b) The Department shall add to or remove from the nurse
23 aide registry records of findings as reported by the
24 Inspector General under Section 6.2 of the Abused and
25 Neglected Long Term Care Facility Residents Reporting Act.

26 (Source: P.A. 91-598, eff. 1-1-00.)

27 Section 99. Effective date. This Act takes effect on
28 January 1, 2002."