



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5 (Section scheduled to be repealed on January 1, 2002)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."