

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  
5 Facility Residents Reporting Act is amended by changing  
6 Section 6.2 as follows:

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

8 (Section scheduled to be repealed on January 1, 2004)

9 Sec. 6.2. Inspector General.

10 (a) The Governor shall appoint, and the Senate shall  
11 confirm, an Inspector General who 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 investigate reports of suspected abuse or neglect (as those  
15 terms are defined in Section 3 of this Act) of patients or  
16 residents in any mental health or developmental disabilities  
17 facility operated by the Department of Human Services and  
18 shall have authority to investigate and take immediate action  
19 on reports of abuse or neglect of recipients, whether  
20 patients or residents, in any mental health or developmental  
21 disabilities facility or program that is licensed or  
22 certified by the Department of Human Services (as successor  
23 to the Department of Mental Health and Developmental  
24 Disabilities) or that is funded by the Department of Human  
25 Services (as successor to the Department of Mental Health and  
26 Developmental Disabilities) and is not licensed or certified  
27 by any agency of the State. At the specific, written request  
28 of an agency of the State other than the Department of Human  
29 Services (as successor to the Department of Mental Health and  
30 Developmental Disabilities), the Inspector General may  
31 cooperate in investigating reports of abuse and neglect of

1 persons with mental illness or persons with developmental  
2 disabilities. The Inspector General shall have no  
3 supervision over or involvement in routine, programmatic,  
4 licensure, or certification operations of the Department of  
5 Human Services or any of its funded agencies.

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

30 The Inspector General shall be appointed for a term of 4  
31 years.

32 When the Office of the Inspector General has  
33 substantiated a case of abuse or neglect, the Inspector  
34 General shall include in the final report any mitigating or

1     aggravating circumstances that were identified during the  
2     investigation. Upon determination that a report of neglect  
3     is substantiated, the Inspector General shall then determine  
4     whether such neglect 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 determines that a possible criminal  
9     act has been committed, or that special expertise is required  
10    in the investigation, he shall immediately notify the  
11    Department of State Police. The Department of State Police  
12    shall investigate any report indicating a possible murder,  
13    rape, or other felony. All investigations conducted by the  
14    Inspector General shall be conducted in a manner designed to  
15    ensure the preservation of evidence for possible use in a  
16    criminal prosecution.

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

1 neglect, prevent reoccurrences, and eliminate problems  
2 identified and shall include implementation and completion  
3 dates for all such action.

4 (c) The Inspector General shall, within 10 calendar days  
5 after the transmittal date of a completed investigation where  
6 abuse or neglect is substantiated or administrative action is  
7 recommended, provide a complete report on the case to the  
8 Secretary of Human Services and to the agency in which the  
9 abuse or neglect is alleged to have happened. The complete  
10 report shall include a written response from the agency or  
11 facility operated by the State to the Inspector General that  
12 addresses in a concise and reasoned manner the actions that  
13 the agency or facility will take or has taken to protect the  
14 resident or patient from abuse or neglect, prevent  
15 reoccurrences, and eliminate problems identified and shall  
16 include implementation and completion dates for all such  
17 action. The Secretary of Human Services shall accept or  
18 reject the response and establish how the Department will  
19 determine whether the facility or program followed the  
20 approved response. The Secretary may require Department  
21 personnel to visit the facility or agency for training,  
22 technical assistance, programmatic, licensure, or  
23 certification purposes. Administrative action, including  
24 sanctions, may be applied should the Secretary reject the  
25 response or should the facility or agency fail to follow the  
26 approved response. The facility or agency shall inform the  
27 resident or patient and the legal guardian whether the  
28 reported allegation was substantiated, unsubstantiated, or  
29 unfounded. There shall be an appeals process for any person  
30 or agency based on a finding of abuse or neglect or for any  
31 person or agency that is subject to any action based on a  
32 recommendation or recommendations. The hearings under this  
33 Section shall be conducted in accordance with the  
34 Department's rules on the conduct of hearing and appeals in

1 89 Ill. Adm. Code 508.

2 (d) The Inspector General may recommend to the  
3 Departments of Public Health and Human Services sanctions to  
4 be imposed against mental health and developmental  
5 disabilities facilities under the jurisdiction of the  
6 Department of Human Services for the protection of residents,  
7 including appointment of on-site monitors or receivers,  
8 transfer or relocation of residents, and closure of units.  
9 The Inspector General may seek the assistance of the Attorney  
10 General or any of the several State's attorneys in imposing  
11 such sanctions.

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

15 (f) The Inspector General shall at all times be granted  
16 access to any mental health or developmental disabilities  
17 facility operated by the Department, shall establish and  
18 conduct unannounced site visits to those facilities at least  
19 once annually, and shall be granted access, for the purpose  
20 of investigating a report of abuse or neglect, to any  
21 facility or program funded by the Department that is subject  
22 under the provisions of this Section to investigation by the  
23 Inspector General for a report of abuse or neglect.

24 (g) Nothing in this Section shall limit investigations  
25 by the Department of Human Services that may otherwise be  
26 required by law or that may be necessary in that Department's  
27 capacity as the central administrative authority responsible  
28 for the operation of State mental health and developmental  
29 disability facilities.

30 (g-5) After notice and an opportunity for a hearing that  
31 is separate and distinct from the Office of the Inspector  
32 General's appeals process as implemented under subsection (c)  
33 of this Section, the Inspector General shall report to the  
34 Department of Public Health's nurse aide registry under

1 Section 3-206.01 of the Nursing Home Care Act the identity of  
2 individuals against whom there has been a substantiated  
3 finding of physical or sexual abuse or egregious neglect of a  
4 service recipient.

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

25 The Department of Human Services shall promulgate or  
26 amend rules as necessary or appropriate to establish  
27 procedures for reporting to the registry, including the  
28 definition of egregious neglect, procedures for notice to the  
29 individual and victim, appeal and hearing procedures, and  
30 petition for removal of the report from the registry. The  
31 portion of the rules pertaining to hearings shall provide  
32 that, at the hearing, both parties may present written and  
33 oral evidence. The Department shall be required to establish  
34 by a preponderance of the evidence that the Office of the

1 Inspector General's finding of physical or sexual abuse or  
2 egregious neglect warrants reporting to the Department of  
3 Public Health's nurse aide registry under Section 3-206.01 of  
4 the Nursing Home Care Act.

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

27 At any time after the report of the registry, an  
28 individual may petition the Department of Human Services for  
29 removal from the registry of the finding against him or her.  
30 Upon receipt of such a petition, the Department of Human  
31 Services shall conduct an investigation and hearing on the  
32 petition. Upon completion of the investigation and hearing,  
33 the Department of Human Services shall report the removal of  
34 the finding to the registry unless the Department of Human

1 Services determines that removal is not in the public  
2 interest.

3 (h) This Section is repealed on January 1, 2004.

4 (Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01;  
5 92-473, eff. 1-1-02; revised 10-10-01.)

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law.