

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5 (Section scheduled to be repealed on January 1, 2002)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 the Office of the Inspector General has
28 substantiated a case of abuse or neglect, the Inspector
29 General shall include in the final report any mitigating or
30 aggravating circumstances that were identified during the
31 investigation. Upon determination that a report of neglect
32 is substantiated, the Inspector General shall then determine
33 whether such neglect rises to the level of egregious neglect.

34 (b) The Inspector General shall within 24 hours after

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

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

33 (c) The Inspector General shall, within 10 calendar days
34 after the transmittal date of a completed investigation where

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

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

1 General or any of the several State's attorneys in imposing
2 such sanctions.

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

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

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

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

30 Nothing in this subsection shall diminish or impair the
31 rights of a person who is a member of a collective bargaining
32 unit pursuant to the Illinois Public Labor Relations Act or
33 pursuant to any federal labor statute. An individual who is
34 a member of a collective bargaining unit as described above

1 shall not be reported to the Department of Public Health's
2 nurse aide registry until the exhaustion of that individual's
3 grievance and arbitration rights, or until 3 months after the
4 initiation of the grievance process, whichever occurs first,
5 provided that the Department of Human Services' hearing under
6 subsection (c), that is separate and distinct from the Office
7 of the Inspector General's appeals process, has concluded.
8 Notwithstanding anything hereinafter or previously provided,
9 if an action taken by an employer against an individual as a
10 result of the circumstances that led to a finding of physical
11 or sexual abuse or egregious neglect is later overturned
12 under a grievance or arbitration procedure provided for in
13 Section 8 of the Illinois Public Labor Relations Act or under
14 a collective bargaining agreement, the report must be removed
15 from the registry.

16 The Department of Human Services shall promulgate or
17 amend rules as necessary or appropriate to establish
18 procedures for reporting to the registry, including the
19 definition of egregious neglect, procedures for notice to the
20 individual and victim, appeal and hearing procedures, and
21 petition for removal of the report from the registry. The
22 portion of the rules pertaining to hearings shall provide
23 that, at the hearing, both parties may present written and
24 oral evidence. The Department shall be required to
25 establish by a preponderance of the evidence that the Office
26 of the Inspector General's finding of physical or sexual
27 abuse or egregious neglect warrants reporting to the
28 Department of Public Health's nurse aide registry under
29 Section 3-206.01 of the Nursing Home Care Act.

30 Notice to the individual shall include a clear and
31 concise statement of the grounds on which the report to the
32 registry is based and notice of the opportunity for a hearing
33 to contest the report. The Department of Human Services shall
34 provide the notice by certified mail to the last known

1 address of the individual. The notice shall give the
2 individual an opportunity to contest the report in a hearing
3 before the Department of Human Services or to submit a
4 written response to the findings instead of requesting a
5 hearing. If the individual does not request a hearing or if
6 after notice and a hearing the Department of Human Services
7 finds that the report is valid, the finding shall be included
8 as part of the registry, as well as a brief statement from
9 the reported individual if he or she chooses to make a
10 statement. The Department of Public Health shall make
11 available to the public information reported to the registry.
12 In a case of inquiries concerning an individual listed in the
13 registry, any information disclosed concerning a finding of
14 abuse or neglect shall also include disclosure of the
15 individual's brief statement in the registry relating to the
16 reported finding or include a clear and accurate summary of
17 the statement.

18 At any time after the report of the registry, an
19 individual may petition the Department of Human Services for
20 removal from the registry of the finding against him or her.
21 Upon receipt of such a petition, the Department of Human
22 Services shall conduct an investigation and hearing on the
23 petition. Upon completion of the investigation and hearing,
24 the Department of Human Services shall report the removal of
25 the finding to the registry unless the Department of Human
26 Services determines that removal is not in the public
27 interest.

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

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

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

3 Sec. 3-206.01. Nurse aide registry.

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

21 If the Department finds that a nursing assistant,
22 habilitation aide, or child care aide has abused a resident,
23 neglected a resident, or misappropriated resident property in
24 a facility, the Department shall notify the individual of
25 this finding by certified mail sent to the address contained
26 in the registry. The notice shall give the individual an
27 opportunity to contest the finding in a hearing before the
28 Department or to submit a written response to the findings in
29 lieu of requesting a hearing. If, after a hearing or if the
30 individual does not request a hearing, the Department finds
31 that the individual abused a resident, neglected a resident,
32 or misappropriated resident property in a facility, the
33 finding shall be included as part of the registry as well as
34 a brief statement from the individual, if he or she chooses

1 to make such a statement. The Department shall make
2 information in the registry available to the public. In the
3 case of inquiries to the registry concerning an individual
4 listed in the registry, any information disclosed concerning
5 such a finding shall also include disclosure of any statement
6 in the registry relating to the finding or a clear and
7 accurate summary of the statement.

8 (b) The Department shall add to the nurse aide registry
9 records of findings as reported by the Inspector General or
10 remove from the nurse aide registry records of findings as
11 reported by the Department of Human Services, under Section
12 6.2 of the Abuse and Neglected Long Term Care Facility
13 Residents Reporting Act.

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

15 Section 99. Effective date. This Act takes effect on
16 January 1, 2002."