

1 AMENDMENT TO SENATE BILL 319

2 AMENDMENT NO. _____. Amend Senate Bill 319 on page 1, by
3 inserting immediately below line 3 the following:

4 "Section 3. The Abused and Neglected Long Term Care
5 Facility Residents Reporting Act is amended by changing
6 Section 4 as follows:

7 (210 ILCS 30/4) (from Ch. 111 1/2, par. 4164)

8 Sec. 4. Any long term care facility administrator, agent
9 or employee or any physician, hospital, surgeon, dentist,
10 osteopath, chiropractor, podiatrist, ~~Christian---~~Science
11 practitioner, coroner, social worker, social services
12 administrator, registered nurse, law enforcement officer,
13 field personnel of the Illinois Department of Public Aid,
14 field personnel of the Illinois Department of Public Health
15 and County or Municipal Health Departments, personnel of the
16 Department of Human Services (acting as the successor to the
17 Department of Mental Health and Developmental Disabilities or
18 the Department of Public Aid), personnel of the Guardianship
19 and Advocacy Commission, personnel of the State Fire Marshal,
20 local fire department inspectors or other personnel, or
21 personnel of the Illinois Department on Aging, or its
22 subsidiary Agencies on Aging, or employee of a facility

1 licensed under the Assisted Living and Shared Housing Act,
2 having reasonable cause to believe any resident with whom
3 they have direct contact has been subjected to abuse or
4 neglect shall immediately report or cause a report to be made
5 to the Department. Persons required to make reports or cause
6 reports to be made under this Section include all employees
7 of the State of Illinois who are involved in providing
8 services to residents, including professionals providing
9 medical or rehabilitation services and all other persons
10 having direct contact with residents; and further include all
11 employees of community service agencies who provide services
12 to a resident of a public or private long term care facility
13 outside of that facility. Any long term care surveyor of the
14 Illinois Department of Public Health who has reasonable cause
15 to believe in the course of a survey that a resident has been
16 abused or neglected and initiates an investigation while on
17 site at the facility shall be exempt from making a report
18 under this Section but the results of any such investigation
19 shall be forwarded to the central register in a manner and
20 form described by the Department.

21 The requirement of this Act shall not relieve any long
22 term care facility administrator, agent or employee of
23 responsibility to report the abuse or neglect of a resident
24 under Section 3-610 of the Nursing Home Care Act.

25 In addition to the above persons required to report
26 suspected resident abuse and neglect, any other person may
27 make a report to the Department, or to any law enforcement
28 officer, if such person has reasonable cause to suspect a
29 resident has been abused or neglected.

30 This Section also applies to residents whose death occurs
31 from suspected abuse or neglect before being found or brought
32 to a hospital.

33 A person required to make reports or cause reports to be
34 made under this Section who fails to comply with the

1 requirements of this Section is guilty of a Class A
2 misdemeanor. A person who is required to make reports or
3 cause reports to be made under this Section who suffers
4 damages as a result of making or causing to be made a report
5 of a violation committed by a licensee or its agents or
6 employees may bring an action against the licensee and its
7 agents and employees.

8 A person who knowingly transmits or causes to be
9 transmitted a false report to the Department commits the
10 offense of disorderly conduct under item (8.5) of subsection
11 (a) of Section 26-1 of the Criminal Code of 1961.

12 (Source: P.A. 91-656, eff. 1-1-01.)"; and

13 on page 1, line 5, by replacing "Section 3-608" with
14 "Sections 3-608 and 3-702"; and

15 on page 1, immediately below line 19, by inserting the
16 following:

17 "(210 ILCS 45/3-702) (from Ch. 111 1/2, par. 4153-702)

18 Sec. 3-702. (a) A person who believes that this Act or a
19 rule promulgated under this Act may have been violated may
20 request an investigation. The request may be submitted to the
21 Department in writing, by telephone, or by personal visit. An
22 oral complaint shall be reduced to writing by the Department.
23 The Department shall request information identifying the
24 complainant, including the name, address and telephone
25 number, to help enable appropriate follow-up. The Department
26 shall act on such complaints via on-site visits or other
27 methods deemed appropriate to handle the complaints with or
28 without such identifying information, as otherwise provided
29 under this Section. The complainant shall be informed that
30 compliance with such request is not required to satisfy the
31 procedures for filing a complaint under this Act.

32 (b) The substance of the complaint shall be provided in

1 writing to the licensee, owner or administrator no earlier
2 than at the commencement of an on-site inspection of the
3 facility which takes place pursuant to the complaint.

4 (c) The Department shall not disclose the name of the
5 complainant unless the complainant consents in writing to the
6 disclosure or the investigation results in a judicial
7 proceeding, or unless disclosure is essential to the
8 investigation. The complainant shall be given the opportunity
9 to withdraw the complaint before disclosure. Upon the request
10 of the complainant, the Department may permit the complainant
11 or a representative of the complainant to accompany the
12 person making the on-site inspection of the facility.

13 (d) Upon receipt of a complaint, the Department shall
14 determine whether this Act or a rule promulgated under this
15 Act has been or is being violated. The Department shall
16 investigate all complaints of alleging abuse or neglect ~~that~~
17 ~~within--7-days-after-the-receipt-of-the-complaint-except-that~~
18 ~~complaints--of--abuse--or--neglect--which~~ indicate that a
19 resident's life or safety is in imminent danger ~~shall-be~~
20 investigated within 24 hours after receipt of the complaint.
21 Complaints alleging immediate jeopardy to a resident's health
22 or safety shall be investigated within 2 working days after
23 receipt of the complaint. All other complaints shall be
24 investigated during the facility's next annual survey within
25 ~~30-days-after-the-receipt-of-the--complaint.~~ The Department
26 employees investigating a complaint shall conduct a brief,
27 informal exit conference with the facility to alert its
28 administration of any suspected serious deficiency that poses
29 a direct threat to the health, safety or welfare of a
30 resident to enable an immediate correction for the
31 alleviation or elimination of such threat. Such information
32 and findings discussed in the brief exit conference shall
33 become a part of the investigating record but shall not in
34 any way constitute an official or final notice of violation

1 as provided under Section 3-301. All complaints shall be
2 classified as "an invalid report", "a valid report", or "an
3 undetermined report". For any complaint classified as "a
4 valid report", the Department must determine within 30
5 working days if any rule or provision of this Act has been or
6 is being violated.

7 (d-1) The Department shall, whenever possible, combine
8 an on-site investigation of a complaint in a facility with
9 other inspections in order to avoid duplication of
10 inspections.

11 (e) In all cases, the Department shall inform the
12 complainant of its findings within 10 days of its
13 determination unless otherwise indicated by the complainant,
14 and the complainant may direct the Department to send a copy
15 of such findings to another person. The Department's findings
16 may include comments or documentation provided by either the
17 complainant or the licensee pertaining to the complaint. The
18 Department shall also notify the facility of such findings
19 within 10 days of the determination, but the name of the
20 complainant or residents shall not be disclosed in this
21 notice to the facility. The notice of such findings shall
22 include a copy of the written determination; the correction
23 order, if any; the warning notice, if any; the inspection
24 report; or the State licensure form on which the violation is
25 listed.

26 (f) A written determination, correction order, or
27 warning notice concerning a complaint, together with the
28 facility's response, shall be available for public
29 inspection, but the name of the complainant or resident shall
30 not be disclosed without his consent.

31 (g) A complainant who is dissatisfied with the
32 determination or investigation by the Department may request
33 a hearing under Section 3-703. The facility shall be given
34 notice of any such hearing and may participate in the hearing

1 as a party. If a facility requests a hearing under Section
2 3-703 which concerns a matter covered by a complaint, the
3 complainant shall be given notice and may participate in the
4 hearing as a party. A request for a hearing by either a
5 complainant or a facility shall be submitted in writing to
6 the Department within 30 days after the mailing of the
7 Department's findings as described in subsection (e) of this
8 Section. Upon receipt of the request the Department shall
9 conduct a hearing as provided under Section 3-703.

10 (h) Any person who knowingly transmits a false report to
11 the Department commits the offense of disorderly conduct
12 under subsection (a)(8) of Section 26-1 of the "Criminal Code
13 of 1961".

14 (Source: P.A. 85-1378.); and

15 on page 1, line 21, by replacing "Section" with "Sections 2,
16 4, and"; and

17 on page 1, immediately below line 21, by inserting the
18 following:

19 "(320 ILCS 20/2) (from Ch. 23, par. 6602)

20 Sec. 2. Definitions. As used in this Act, unless the
21 context requires otherwise:

22 (a) "Abuse" means causing any physical, mental or sexual
23 injury to an eligible adult, including exploitation of such
24 adult's financial resources.

25 Nothing in this Act shall be construed to mean that an
26 eligible adult is a victim of abuse or neglect for the sole
27 reason that he or she is being furnished with or relies upon
28 treatment by spiritual means through prayer alone, in
29 accordance with the tenets and practices of a recognized
30 church or religious denomination.

31 Nothing in this Act shall be construed to mean that an
32 eligible adult is a victim of abuse because of health care

1 services provided or not provided by licensed health care
2 professionals.

3 (a-5) "Abuser" means a person who abuses, neglects, or
4 financially exploits an eligible adult.

5 (a-7) "Caregiver" means a person who either as a result
6 of a family relationship, voluntarily, or in exchange for
7 compensation has assumed responsibility for all or a portion
8 of the care of an eligible adult who needs assistance with
9 activities of daily living.

10 (b) "Department" means the Department on Aging of the
11 State of Illinois.

12 (c) "Director" means the Director of the Department.

13 (d) "Domestic living situation" means a residence where
14 the eligible adult lives alone or with his or her family or a
15 caregiver, or others, or a board and care home or other
16 community-based unlicensed facility, but is not:

17 (1) A licensed facility as defined in Section 1-113
18 of the Nursing Home Care Act;

19 (2) A "life care facility" as defined in the Life
20 Care Facilities Act;

21 (3) A home, institution, or other place operated by
22 the federal government or agency thereof or by the State
23 of Illinois;

24 (4) A hospital, sanitarium, or other institution,
25 the principal activity or business of which is the
26 diagnosis, care, and treatment of human illness through
27 the maintenance and operation of organized facilities
28 therefor, which is required to be licensed under the
29 Hospital Licensing Act;

30 (5) A "community living facility" as defined in the
31 Community Living Facilities Licensing Act;

32 (6) A "community residential alternative" as
33 defined in the Community Residential Alternatives
34 Licensing Act; and

1 (7) A "community-integrated living arrangement" as
2 defined in the Community-Integrated Living Arrangements
3 Licensure and Certification Act.

4 (e) "Eligible adult" means a person 60 years of age or
5 older who resides in a domestic living situation and is, or
6 is alleged to be, abused, neglected, or financially exploited
7 by another individual.

8 (f) "Emergency" means a situation in which an eligible
9 adult is living in conditions presenting a risk of death or
10 physical, mental or sexual injury and the provider agency has
11 reason to believe the eligible adult is unable to consent to
12 services which would alleviate that risk.

13 (f-5) "Mandated reporter" means any of the following
14 persons while engaged in carrying out their professional
15 duties:

16 (1) a professional or professional's delegate while
17 engaged in: (i) social services, (ii) law enforcement,
18 (iii) education, (iv) the care of an eligible adult or
19 eligible adults, or (v) any of the occupations required
20 to be licensed under the Clinical Psychologist Licensing
21 Act, the Clinical Social Work and Social Work Practice
22 Act, the Illinois Dental Practice Act, the Dietetic and
23 Nutrition Services Practice Act, the Marriage and Family
24 Therapy Licensing Act, the Medical Practice Act of 1987,
25 the Naprapathic Practice Act, the Nursing and Advanced
26 Practice Nursing Act, the Nursing Home Administrators
27 Licensing and Disciplinary Act, the Illinois Occupational
28 Therapy Practice Act, the Illinois Optometric Practice
29 Act of 1987, the Pharmacy Practice Act of 1987, the
30 Illinois Physical Therapy Act, the Physician Assistant
31 Practice Act of 1987, the Podiatric Medical Practice Act
32 of 1987, the Respiratory Care Practice Act, the
33 Professional Counselor and Clinical Professional
34 Counselor Licensing Act, the Illinois Speech-Language

1 Pathology and Audiology Practice Act, the Veterinary
2 Medicine and Surgery Practice Act of 1994, and the
3 Illinois Public Accounting Act;

4 (2) an employee of a vocational rehabilitation
5 facility prescribed or supervised by the Department of
6 Human Services;

7 (3) an administrator, employee, or person providing
8 services in or through an unlicensed community based
9 facility;

10 (4) (blank) a-Christian-Science-Practitioner;

11 (5) field personnel of the Department of Public
12 Aid, Department of Public Health, and Department of Human
13 Services, and any county or municipal health department;

14 (6) personnel of the Department of Human Services,
15 the Guardianship and Advocacy Commission, the State Fire
16 Marshal, local fire departments, the Department on Aging
17 and its subsidiary Area Agencies on Aging and provider
18 agencies, and the Office of State Long Term Care
19 Ombudsman;

20 (7) any employee of the State of Illinois not
21 otherwise specified herein who is involved in providing
22 services to eligible adults, including professionals
23 providing medical or rehabilitation services and all
24 other persons having direct contact with eligible adults;
25 or

26 (8) a person who performs the duties of a coroner
27 or medical examiner.

28 (g) "Neglect" means another individual's failure to
29 provide an eligible adult with or willful withholding from an
30 eligible adult the necessities of life including, but not
31 limited to, food, clothing, shelter or medical care. This
32 subsection does not create any new affirmative duty to
33 provide support to eligible adults. Nothing in this Act
34 shall be construed to mean that an eligible adult is a victim

1 of neglect because of health care services provided or not
2 provided by licensed health care professionals.

3 (h) "Provider agency" means any public or nonprofit
4 agency in a planning and service area appointed by the
5 regional administrative agency with prior approval by the
6 Department on Aging to receive and assess reports of alleged
7 or suspected abuse, neglect, or financial exploitation.

8 (i) "Regional administrative agency" means any public or
9 nonprofit agency in a planning and service area so designated
10 by the Department, provided that the designated Area Agency
11 on Aging shall be designated the regional administrative
12 agency if it so requests. The Department shall assume the
13 functions of the regional administrative agency for any
14 planning and service area where another agency is not so
15 designated.

16 (j) "Substantiated case" means a reported case of
17 alleged or suspected abuse, neglect, or financial
18 exploitation in which a provider agency, after assessment,
19 determines that there is reason to believe abuse, neglect, or
20 financial exploitation has occurred.

21 (Source: P.A. 91-259, eff. 1-1-00; 91-357, eff. 7-29-99;
22 91-533, eff. 8-13-99; 92-16, eff. 6-28-01.)

23 (320 ILCS 20/4) (from Ch. 23, par. 6604)

24 Sec. 4. Reports of abuse or neglect.

25 (a) Any person who suspects the abuse, neglect, or
26 financial exploitation of an eligible adult may report this
27 suspicion to an agency designated to receive such reports
28 under this Act or to the Department.

29 (a-5) If any mandated reporter has reason to believe
30 that an eligible adult, who because of dysfunction is unable
31 to seek assistance for himself or herself, has, within the
32 previous 12 months, been subjected to abuse, neglect, or
33 financial exploitation, the mandated reporter shall, within

1 24 hours after developing such belief, report this suspicion
2 to an agency designated to receive such reports under this
3 Act or to the Department. Whenever a mandated reporter is
4 required to report under this Act in his or her capacity as a
5 member of the staff of a medical or other public or private
6 institution, facility, board and care home, or agency, he or
7 she shall make a report to an agency designated to receive
8 such reports under this Act or to the Department in
9 accordance with the provisions of this Act and may also
10 notify the person in charge of the institution, facility,
11 board and care home, or agency or his or her designated agent
12 that the report has been made. Under no circumstances shall
13 any person in charge of such institution, facility, board and
14 care home, or agency, or his or her designated agent to whom
15 the notification has been made, exercise any control,
16 restraint, modification, or other change in the report or the
17 forwarding of the report to an agency designated to receive
18 such reports under this Act or to the Department. The
19 privileged quality of communication between any professional
20 person required to report and his or her patient or client
21 shall not apply to situations involving abused, neglected, or
22 financially exploited eligible adults and shall not
23 constitute grounds for failure to report as required by this
24 Act.

25 (a-7) A person making a report under this Act in the
26 belief that it is in the alleged victim's best interest shall
27 be immune from criminal or civil liability or professional
28 disciplinary action on account of making the report,
29 notwithstanding any requirements concerning the
30 confidentiality of information with respect to such eligible
31 adult which might otherwise be applicable.

32 (a-9) Law enforcement officers shall continue to report
33 incidents of alleged abuse pursuant to the Illinois Domestic
34 Violence Act of 1986, notwithstanding any requirements under

1 this Act.

2 (b) Any person, institution or agency participating in
3 the making of a report, providing information or records
4 related to a report, assessment, or services, or
5 participating in the investigation of a report under this Act
6 in good faith, or taking photographs or x-rays as a result of
7 an authorized assessment, shall have immunity from any civil,
8 criminal or other liability in any civil, criminal or other
9 proceeding brought in consequence of making such report or
10 assessment or on account of submitting or otherwise
11 disclosing such photographs or x-rays to any agency
12 designated to receive reports of alleged or suspected abuse
13 or neglect. Any person, institution or agency authorized by
14 the Department to provide assessment, intervention, or
15 administrative services under this Act shall, in the good
16 faith performance of those services, have immunity from any
17 civil, criminal or other liability in any civil, criminal, or
18 other proceeding brought as a consequence of the performance
19 of those services. For the purposes of any civil, criminal,
20 or other proceeding, the good faith of any person required to
21 report, permitted to report, or participating in an
22 investigation of a report of alleged or suspected abuse,
23 neglect, or financial exploitation shall be presumed.

24 (c) The identity of a person making a report of alleged
25 or suspected abuse or neglect under this Act may be disclosed
26 by the Department or other agency provided for in this Act
27 only with such person's written consent or by court order.

28 (d) The Department shall by rule establish a system for
29 filing and compiling reports made under this Act.

30 (e) A person who knowingly transmits or causes to be
31 transmitted a false report to the Department commits the
32 offense of disorderly conduct under item (8.6) of subsection
33 (a) of Section 26-1 of the Criminal Code of 1961.

34 (Source: P.A. 90-628, eff. 1-1-99.)"; and

1 on page 2, by inserting immediately below line 6 the
2 following:

3 "Section 15. The Criminal Code of 1961 is amended by
4 changing Section 26-1 as follows:

5 (720 ILCS 5/26-1) (from Ch. 38, par. 26-1)
6 Sec. 26-1. Elements of the Offense.

7 (a) A person commits disorderly conduct when he
8 knowingly:

9 (1) Does any act in such unreasonable manner as to
10 alarm or disturb another and to provoke a breach of the
11 peace; or

12 (2) Transmits or causes to be transmitted in any
13 manner to the fire department of any city, town, village
14 or fire protection district a false alarm of fire,
15 knowing at the time of such transmission that there is no
16 reasonable ground for believing that such fire exists; or

17 (3) Transmits or causes to be transmitted in any
18 manner to another a false alarm to the effect that a bomb
19 or other explosive of any nature or a container holding
20 poison gas, a deadly biological or chemical contaminant,
21 or radioactive substance is concealed in such place that
22 its explosion or release would endanger human life,
23 knowing at the time of such transmission that there is no
24 reasonable ground for believing that such bomb, explosive
25 or a container holding poison gas, a deadly biological or
26 chemical contaminant, or radioactive substance is
27 concealed in such place; or

28 (4) Transmits or causes to be transmitted in any
29 manner to any peace officer, public officer or public
30 employee a report to the effect that an offense will be
31 committed, is being committed, or has been committed,
32 knowing at the time of such transmission that there is no

1 reasonable ground for believing that such an offense will
2 be committed, is being committed, or has been committed;
3 or

4 (5) Enters upon the property of another and for a
5 lewd or unlawful purpose deliberately looks into a
6 dwelling on the property through any window or other
7 opening in it; or

8 (6) While acting as a collection agency as defined
9 in the "Collection Agency Act" or as an employee of such
10 collection agency, and while attempting to collect an
11 alleged debt, makes a telephone call to the alleged
12 debtor which is designed to harass, annoy or intimidate
13 the alleged debtor; or

14 (7) Transmits or causes to be transmitted a false
15 report to the Department of Children and Family Services
16 under Section 4 of the "Abused and Neglected Child
17 Reporting Act"; or

18 (8) Transmits or causes to be transmitted a false
19 report to the Department of Public Health under the
20 Nursing Home Care Act; or

21 (8.5) Transmits or causes to be transmitted a false
22 report to the Department of Public Health under the
23 Abused and Neglected Long Term Care Facility Residents
24 Reporting Act; or

25 (8.6) Transmits or causes to be transmitted a false
26 report to the Department on Aging under the Elder Abuse
27 and Neglect Act; or

28 (9) Transmits or causes to be transmitted in any
29 manner to the police department or fire department of any
30 municipality or fire protection district, or any
31 privately owned and operated ambulance service, a false
32 request for an ambulance, emergency medical
33 technician-ambulance or emergency medical
34 technician-paramedic knowing at the time there is no

1 reasonable ground for believing that such assistance is
2 required; or

3 (10) Transmits or causes to be transmitted a false
4 report under Article II of "An Act in relation to victims
5 of violence and abuse", approved September 16, 1984, as
6 amended; or

7 (11) Transmits or causes to be transmitted a false
8 report to any public safety agency without the reasonable
9 grounds necessary to believe that transmitting such a
10 report is necessary for the safety and welfare of the
11 public; or

12 (12) Calls the number "911" for the purpose of
13 making or transmitting a false alarm or complaint and
14 reporting information when, at the time the call or
15 transmission is made, the person knows there is no
16 reasonable ground for making the call or transmission and
17 further knows that the call or transmission could result
18 in the emergency response of any public safety agency.

19 (b) Sentence. A violation of subsection (a)(1) of this
20 Section is a Class C misdemeanor. A violation of subsection
21 (a)(5), (a)(7), (a)(8), (a)(8.5), (a)(8.6), (a)(11), or
22 (a)(12) of this Section is a Class A misdemeanor. A
23 violation of subsection ~~(a)(8)~~ or (a)(10) of this Section is
24 a Class B misdemeanor. A violation of subsection (a)(2),
25 (a)(4), or (a)(9) of this Section is a Class 4 felony. A
26 violation of subsection (a)(3) of this Section is a Class 3
27 felony, for which a fine of not less than \$3,000 and no more
28 than \$10,000 shall be assessed in addition to any other
29 penalty imposed.

30 A violation of subsection (a)(6) of this Section is a
31 Business Offense and shall be punished by a fine not to
32 exceed \$3,000. A second or subsequent violation of
33 subsection (a)(7), (a)(8), (a)(8.5), (a)(8.6), (a)(11), or
34 (a)(12) of this Section is a Class 4 felony. A third or

1 subsequent violation of subsection (a)(5) of this Section is
2 a Class 4 felony.

3 (c) In addition to any other sentence that may be
4 imposed, a court shall order any person convicted of
5 disorderly conduct to perform community service for not less
6 than 30 and not more than 120 hours, if community service is
7 available in the jurisdiction and is funded and approved by
8 the county board of the county where the offense was
9 committed. In addition, whenever any person is placed on
10 supervision for an alleged offense under this Section, the
11 supervision shall be conditioned upon the performance of the
12 community service.

13 This subsection does not apply when the court imposes a
14 sentence of incarceration.

15 (Source: P.A. 91-115, eff. 1-1-00; 91-121, eff. 7-15-99;
16 92-16, eff. 6-28-01; 92-502, eff. 12-19-01.)".