



Sen. Jacqueline Y. Collins

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1 AMENDMENT TO SENATE BILL 849

2 AMENDMENT NO. _____. Amend Senate Bill 849 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Abused and Neglected Long Term Care
5 Facility Residents Reporting Act is amended by changing
6 Sections 6.2 and 10 as follows:

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

8 Sec. 6.2. Inspector General.

9 (a) The Governor shall appoint, and the Senate shall
10 confirm, an Inspector General. The Inspector General shall be
11 appointed for a term of 4 years and 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 function independently within the Department of Human Services
15 with respect to the operations of the office, including the
16 performance of investigations and issuance of findings and
17 recommendations. The appropriation for the Office of Inspector
18 General shall be separate from the overall appropriation for
19 the Department of Human Services. The Inspector General shall
20 investigate reports of suspected abuse or neglect (as those
21 terms are defined in Section 3 of this Act) of patients or
22 residents in any mental health or developmental disabilities
23 facility operated by the Department of Human Services and shall
24 have authority to investigate and take immediate action on

1 reports of abuse or neglect of recipients, whether patients or
2 residents, in any mental health or developmental disabilities
3 facility or program that is licensed or certified by the
4 Department of Human Services (as successor to the Department of
5 Mental Health and Developmental Disabilities) or that is funded
6 by the Department of Human Services (as successor to the
7 Department of Mental Health and Developmental Disabilities)
8 and is not licensed or certified by any agency of the State. At
9 the specific, written request of an agency of the State other
10 than the Department of Human Services (as successor to the
11 Department of Mental Health and Developmental Disabilities),
12 the Inspector General may cooperate in investigating reports of
13 abuse and neglect of persons with mental illness or persons
14 with developmental disabilities. The Inspector General shall
15 have no supervision over or involvement in routine,
16 programmatic, licensure, or certification operations of the
17 Department of Human Services or any of its funded agencies.

18 The Inspector General shall promulgate rules establishing
19 minimum requirements for reporting allegations of abuse and
20 neglect and initiating, conducting, and completing
21 investigations. The promulgated rules shall clearly set forth
22 that in instances where 2 or more State agencies could
23 investigate an allegation of abuse or neglect, the Inspector
24 General shall not conduct an investigation that is redundant to
25 an investigation conducted by another State agency. The rules
26 shall establish criteria for determining, based upon the nature
27 of the allegation, the appropriate method of investigation,
28 which may include, but need not be limited to, site visits,
29 telephone contacts, or requests for written responses from
30 agencies. The rules shall also clarify how the Office of the
31 Inspector General shall interact with the licensing unit of the
32 Department of Human Services in investigations of allegations
33 of abuse or neglect. Any allegations or investigations of
34 reports made pursuant to this Act shall remain confidential

1 until a final report is completed. The resident or patient who
2 allegedly was abused or neglected and his or her legal guardian
3 shall be informed by the facility or agency of the report of
4 alleged abuse or neglect. Final reports regarding
5 unsubstantiated or unfounded allegations shall remain
6 confidential, except that final reports may be disclosed
7 pursuant to Section 6 of this Act.

8 When the Office of the Inspector General has substantiated
9 a case of abuse or neglect, the Inspector General shall include
10 in the final report any mitigating or aggravating circumstances
11 that were identified during the investigation. Upon
12 determination that a report of neglect is substantiated, the
13 Inspector General shall then determine whether such neglect
14 rises to the level of egregious neglect.

15 (b) The Inspector General shall, within 24 hours after
16 determining that a reported allegation ~~receiving a report~~ of
17 suspected abuse or neglect ~~determine whether the evidence~~
18 indicates that any possible criminal act has been committed. ~~If~~
19 ~~he determines that a possible criminal act has been committed,~~
20 or that special expertise is required in the investigation, ~~he~~
21 ~~shall~~ immediately notify the Department of State Police or the
22 appropriate law enforcement entity. The Department of State
23 Police shall investigate any report from a State-operated
24 facility indicating a possible murder, rape, or other felony.
25 All investigations conducted by the Inspector General shall be
26 conducted in a manner designed to ensure the preservation of
27 evidence for possible use in a criminal prosecution.

28 (b-5) The Inspector General shall make a determination to
29 accept or reject a preliminary report of the investigation of
30 alleged abuse or neglect based on established investigative
31 procedures. Notice of the Inspector General's determination
32 must be given to the person who claims to be the victim of the
33 abuse or neglect, to the person or persons alleged to have been
34 responsible for abuse or neglect, and to the facility or

1 agency. The facility or agency or the person or persons alleged
2 to have been responsible for the abuse or neglect and the
3 person who claims to be the victim of the abuse or neglect may
4 request clarification or reconsideration based on additional
5 information. For cases where the allegation of abuse or neglect
6 is substantiated, the Inspector General shall require the
7 facility or agency to submit a written response. The written
8 response from a facility or agency shall address in a concise
9 and reasoned manner the actions that the agency or facility
10 will take or has taken to protect the resident or patient from
11 abuse or neglect, prevent reoccurrences, and eliminate
12 problems identified and shall include implementation and
13 completion dates for all such action.

14 (c) The Inspector General shall, within 10 calendar days
15 after the transmittal date of a completed investigation where
16 abuse or neglect is substantiated or administrative action is
17 recommended, provide a complete report on the case to the
18 Secretary of Human Services and to the agency in which the
19 abuse or neglect is alleged to have happened. The complete
20 report shall include a written response from the agency or
21 facility operated by the State to the Inspector General that
22 addresses in a concise and reasoned manner the actions that the
23 agency or facility will take or has taken to protect the
24 resident or patient from abuse or neglect, prevent
25 reoccurrences, and eliminate problems identified and shall
26 include implementation and completion dates for all such
27 action. The Secretary of Human Services shall accept or reject
28 the response and establish how the Department will determine
29 whether the facility or program followed the approved response.
30 The Secretary may require Department personnel to visit the
31 facility or agency for training, technical assistance,
32 programmatic, licensure, or certification purposes.
33 Administrative action, including sanctions, may be applied
34 should the Secretary reject the response or should the facility

1 or agency fail to follow the approved response. Within 30 days
2 after the Secretary has approved a response, the facility or
3 agency making the response shall provide an implementation
4 report to the Inspector General on the status of the corrective
5 action implemented. Within 60 days after the Secretary has
6 approved the response, the facility or agency shall send notice
7 of the completion of the corrective action or shall send an
8 updated implementation report. The facility or agency shall
9 continue sending updated implementation reports every 60 days
10 until the facility or agency sends a notice of the completion
11 of the corrective action. The Inspector General shall review
12 any implementation plan that takes more than 120 days. The
13 Inspector General shall monitor compliance through a random
14 review of completed corrective actions. This monitoring may
15 include, but need not be limited to, site visits, telephone
16 contacts, or requests for written documentation from the
17 facility or agency to determine whether the facility or agency
18 is in compliance with the approved response. The facility or
19 agency shall inform the resident or patient and the legal
20 guardian whether the reported allegation was substantiated,
21 unsubstantiated, or unfounded. There shall be an appeals
22 process for any person or agency that is subject to any action
23 based on a recommendation or recommendations.

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

1 written response.

2 (e) The Inspector General shall establish and conduct
3 periodic training programs for Department of Human Services
4 employees concerning the prevention and reporting of neglect
5 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 of Human Services, shall
9 establish and conduct unannounced site visits to those
10 facilities at least once annually, and shall be granted access,
11 for the purpose of investigating a report of abuse or neglect,
12 to the records of the Department of Human Services and to any
13 facility or program funded by the Department of Human Services
14 that is subject under the provisions of this Section to
15 investigation by the Inspector General for a report of abuse or
16 neglect.

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

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

32 Nothing in this subsection shall diminish or impair the
33 rights of a person who is a member of a collective bargaining
34 unit pursuant to the Illinois Public Labor Relations Act or

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

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

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

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

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

26 (Source: P.A. 92-358, eff. 8-15-01; 92-473, eff. 1-1-02;
27 92-651, eff. 7-11-02; 93-636, eff. 12-31-03.)

28 (210 ILCS 30/10) (from Ch. 111 1/2, par. 4170)

29 Sec. 10. If, during the investigation of a report made
30 pursuant to this Act, the Department obtains information
31 indicating possible criminal acts, the Department shall refer
32 the matter to the appropriate law enforcement agency or
33 agencies for further investigation or prosecution. The

1 Department shall make the entire file of its investigation
2 available to the appropriate law enforcement agencies.

3 With respect to reports of suspected abuse or neglect of
4 residents of facilities operated by the Department of Human
5 Services (as successor to the Department of Rehabilitation
6 Services) or recipients of services through any home,
7 institution, program or other entity licensed in whole or in
8 part by the Department of Human Services (as successor to the
9 Department of Rehabilitation Services), the Department shall
10 refer reports ~~indicating possible criminal acts~~ to the
11 Department of State Police or the appropriate law enforcement
12 entity upon awareness that a possible criminal act has occurred
13 ~~for investigation.~~

14 (Source: P.A. 89-507, eff. 7-1-97.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.".