

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 2. The Abuse of Adults with Disabilities
5 Intervention Act is amended by changing Section 55 as follows:

6 (20 ILCS 2435/55) (from Ch. 23, par. 3395-55)

7 Sec. 55. Access to records. All records concerning reports
8 of abuse, neglect, or exploitation of an adult with
9 disabilities and all records generated as a result of the
10 reports shall be confidential and shall not be disclosed except
11 as specifically authorized by this Act or other applicable law.
12 A person making a report of alleged abuse, neglect, or
13 exploitation functioning in his or her capacity as a licensed
14 professional may be entitled to the finding of the
15 investigative assessment and subsequent referrals as
16 authorized by the Inspector General. Office of Inspector
17 General (OIG) investigators shall inform the alleged victim or
18 guardian that information regarding the finding and referrals
19 may be released to the person who made the report if that
20 person is a professional, and the alleged victim or guardian
21 shall be afforded the opportunity to refuse to consent to the
22 release of that information. Access to the records, but not
23 access to the identity of the person or persons making a report
24 of alleged abuse, neglect, or exploitation as contained in the
25 records, shall be allowed to the following persons and for the
26 following purposes:

27 (a) Adults with Disabilities Abuse Project staff in the
28 furtherance of their responsibilities under this Act;

29 (b) A law enforcement agency investigating alleged or
30 suspected abuse, neglect, or exploitation of an adult with
31 disabilities;

32 (c) An adult with disabilities reported to be abused,

1 neglected, or exploited, or the guardian of an adult with
2 disabilities unless the guardian is the alleged perpetrator of
3 the abuse, neglect, or exploitation;

4 (d) A court, upon its finding that access to the records
5 may be necessary for the determination of an issue before the
6 court. However, the access shall be limited to an in camera
7 inspection of the records, unless the court determines that
8 disclosure of the information contained therein is necessary
9 for the resolution of an issue then pending before it;

10 (e) A grand jury, upon its determination that access to the
11 records is necessary to the conduct of its official business;

12 (f) Any person authorized by the Secretary, in writing, for
13 audit or bona fide research purposes;

14 (g) A coroner or medical examiner who has reason to believe
15 that abuse or neglect contributed to or resulted in the death
16 of an adult with disabilities;

17 (h) The agency designated pursuant to the Protection and
18 Advocacy for Developmentally Disabled Persons Act and the
19 Protection and Advocacy for Mentally Ill Persons Act.

20 (Source: P.A. 91-671, eff. 7-1-00.)

21 Section 5. The Abused and Neglected Long Term Care Facility
22 Residents Reporting Act is amended by changing Section 6 as
23 follows:

24 (210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

25 Sec. 6. All reports of suspected abuse or neglect made
26 under this Act shall be made immediately by telephone to the
27 Department's central register established under Section 14 on
28 the single, State-wide, toll-free telephone number established
29 under Section 13, or in person or by telephone through the
30 nearest Department office. No long term care facility
31 administrator, agent or employee, or any other person, shall
32 screen reports or otherwise withhold any reports from the
33 Department, and no long term care facility, department of State
34 government, or other agency shall establish any rules,

1 criteria, standards or guidelines to the contrary. Every long
2 term care facility, department of State government and other
3 agency whose employees are required to make or cause to be made
4 reports under Section 4 shall notify its employees of the
5 provisions of that Section and of this Section, and provide to
6 the Department documentation that such notification has been
7 given. The Department of Human Services shall train all of its
8 mental health and developmental disabilities employees in the
9 detection and reporting of suspected abuse and neglect of
10 residents. Reports made to the central register through the
11 State-wide, toll-free telephone number shall be transmitted to
12 appropriate Department offices and municipal health
13 departments that have responsibility for licensing long term
14 care facilities under the Nursing Home Care Act. All reports
15 received through offices of the Department shall be forwarded
16 to the central register, in a manner and form described by the
17 Department. The Department shall be capable of receiving
18 reports of suspected abuse and neglect 24 hours a day, 7 days a
19 week. Reports shall also be made in writing deposited in the
20 U.S. mail, postage prepaid, within 24 hours after having
21 reasonable cause to believe that the condition of the resident
22 resulted from abuse or neglect. Such reports may in addition be
23 made to the local law enforcement agency in the same manner.
24 However, in the event a report is made to the local law
25 enforcement agency, the reporter also shall immediately so
26 inform the Department. The Department shall initiate an
27 investigation of each report of resident abuse and neglect
28 under this Act, whether oral or written, as provided for in
29 Section 3-702 of the Nursing Home Care Act, except that reports
30 of abuse which indicate that a resident's life or safety is in
31 imminent danger shall be investigated within 24 hours of such
32 report. The Department may delegate to law enforcement
33 officials or other public agencies the duty to perform such
34 investigation.

35 With respect to investigations of reports of suspected
36 abuse or neglect of residents of mental health and

1 developmental disabilities institutions under the jurisdiction
2 of the Department of Human Services, the Department shall
3 transmit copies of such reports to the Department of State
4 Police, the Department of Human Services, and the Inspector
5 General appointed under Section 6.2. If the Department receives
6 a report of suspected abuse or neglect of a recipient of
7 services as defined in Section 1-123 of the Mental Health and
8 Developmental Disabilities Code, the Department shall transmit
9 copies of such report to the Inspector General and the
10 Directors of the Guardianship and Advocacy Commission and the
11 agency designated by the Governor pursuant to the Protection
12 and Advocacy for Developmentally Disabled Persons Act. When
13 requested by the Director of the Guardianship and Advocacy
14 Commission, ~~or~~ the agency designated by the Governor pursuant
15 to the Protection and Advocacy for Developmentally Disabled
16 Persons Act, or the Department of Financial and Professional
17 Regulation, the Department, the Department of Human Services
18 and the Department of State Police shall make available a copy
19 of the final investigative report regarding investigations
20 conducted by their respective agencies on incidents of
21 suspected abuse or neglect of residents of mental health and
22 developmental disabilities institutions or individuals
23 receiving services at community agencies under the
24 jurisdiction of the Department of Human Services. Such final
25 investigative report shall not contain witness statements,
26 investigation notes, draft summaries, results of lie detector
27 tests, investigative files or other raw data which was used to
28 compile the final investigative report. Specifically, the
29 final investigative report of the Department of State Police
30 shall mean the Director's final transmittal letter. The
31 Department of Human Services shall also make available a copy
32 of the results of disciplinary proceedings of employees
33 involved in incidents of abuse or neglect to the Directors. All
34 identifiable information in reports provided shall not be
35 further disclosed except as provided by the Mental Health and
36 Developmental Disabilities Confidentiality Act. Nothing in

1 this Section is intended to limit or construe the power or
2 authority granted to the agency designated by the Governor
3 pursuant to the Protection and Advocacy for Developmentally
4 Disabled Persons Act, pursuant to any other State or federal
5 statute.

6 With respect to investigations of reported resident abuse
7 or neglect, the Department shall effect with appropriate law
8 enforcement agencies formal agreements concerning methods and
9 procedures for the conduct of investigations into the criminal
10 histories of any administrator, staff assistant or employee of
11 the nursing home or other person responsible for the residents
12 care, as well as for other residents in the nursing home who
13 may be in a position to abuse, neglect or exploit the patient.
14 Pursuant to the formal agreements entered into with appropriate
15 law enforcement agencies, the Department may request
16 information with respect to whether the person or persons set
17 forth in this paragraph have ever been charged with a crime and
18 if so, the disposition of those charges. Unless the criminal
19 histories of the subjects involved crimes of violence or
20 resident abuse or neglect, the Department shall be entitled
21 only to information limited in scope to charges and their
22 dispositions. In cases where prior crimes of violence or
23 resident abuse or neglect are involved, a more detailed report
24 can be made available to authorized representatives of the
25 Department, pursuant to the agreements entered into with
26 appropriate law enforcement agencies. Any criminal charges and
27 their disposition information obtained by the Department shall
28 be confidential and may not be transmitted outside the
29 Department, except as required herein, to authorized
30 representatives or delegates of the Department, and may not be
31 transmitted to anyone within the Department who is not duly
32 authorized to handle resident abuse or neglect investigations.

33 The Department shall effect formal agreements with
34 appropriate law enforcement agencies in the various counties
35 and communities to encourage cooperation and coordination in
36 the handling of resident abuse or neglect cases pursuant to

1 this Act. The Department shall adopt and implement methods and
2 procedures to promote statewide uniformity in the handling of
3 reports of abuse and neglect under this Act, and those methods
4 and procedures shall be adhered to by personnel of the
5 Department involved in such investigations and reporting. The
6 Department shall also make information required by this Act
7 available to authorized personnel within the Department, as
8 well as its authorized representatives.

9 The Department shall keep a continuing record of all
10 reports made pursuant to this Act, including indications of the
11 final determination of any investigation and the final
12 disposition of all reports.

13 The Department shall report annually to the General
14 Assembly on the incidence of abuse and neglect of long term
15 care facility residents, with special attention to residents
16 who are mentally disabled. The report shall include but not be
17 limited to data on the number and source of reports of
18 suspected abuse or neglect filed under this Act, the nature of
19 any injuries to residents, the final determination of
20 investigations, the type and number of cases where abuse or
21 neglect is determined to exist, and the final disposition of
22 cases.

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

24 Section 10. The Mental Health and Developmental
25 Disabilities Confidentiality Act is amended by changing
26 Section 11 as follows:

27 (740 ILCS 110/11) (from Ch. 91 1/2, par. 811)

28 Sec. 11. Disclosure of records and communications. Records
29 and communications may be disclosed:

30 (i) in accordance with the provisions of the Abused and
31 Neglected Child Reporting Act;

32 (ii) when, and to the extent, a therapist, in his or
33 her sole discretion, determines that disclosure is
34 necessary to initiate or continue civil commitment

1 proceedings under the laws of this State or to otherwise
2 protect the recipient or other person against a clear,
3 imminent risk of serious physical or mental injury or
4 disease or death being inflicted upon the recipient or by
5 the recipient on himself or another;

6 (iii) when, and to the extent disclosure is, in the
7 sole discretion of the therapist, necessary to the
8 provision of emergency medical care to a recipient who is
9 unable to assert or waive his or her rights hereunder;

10 (iv) when disclosure is necessary to collect sums or
11 receive third party payment representing charges for
12 mental health or developmental disabilities services
13 provided by a therapist or agency to a recipient under
14 Chapter V of the Mental Health and Developmental
15 Disabilities Code or to transfer debts under the
16 Uncollected State Claims Act; however, disclosure shall be
17 limited to information needed to pursue collection, and the
18 information so disclosed shall not be used for any other
19 purposes nor shall it be redisclosed except in connection
20 with collection activities;

21 (v) when requested by a family member, the Department
22 of Human Services may assist in the location of the
23 interment site of a deceased recipient who is interred in a
24 cemetery established under Section 100-26 of the Mental
25 Health and Developmental Disabilities Administrative Act;

26 (vi) in judicial proceedings under Article VIII of
27 Chapter III and Article V of Chapter IV of the Mental
28 Health and Developmental Disabilities Code and proceedings
29 and investigations preliminary thereto, to the State's
30 Attorney for the county or residence of a person who is the
31 subject of such proceedings, or in which the person is
32 found, or in which the facility is located, to the attorney
33 representing the recipient in the judicial proceedings, to
34 any person or agency providing mental health services that
35 are the subject of the proceedings and to that person's or
36 agency's attorney, to any court personnel, including but

1 not limited to judges and circuit court clerks, and to a
2 guardian ad litem if one has been appointed by the court,
3 provided that the information so disclosed shall not be
4 utilized for any other purpose nor be redisclosed except in
5 connection with the proceedings or investigations;

6 (vii) when, and to the extent disclosure is necessary
7 to comply with the requirements of the Census Bureau in
8 taking the federal Decennial Census;

9 (viii) when, and to the extent, in the therapist's sole
10 discretion, disclosure is necessary to warn or protect a
11 specific individual against whom a recipient has made a
12 specific threat of violence where there exists a
13 therapist-recipient relationship or a special
14 recipient-individual relationship;

15 (ix) in accordance with the Sex Offender Registration
16 Act; ~~and~~

17 (x) in accordance with the Rights of Crime Victims and
18 Witnesses Act; ~~and~~

19 (xi) in accordance with Section 6 of the Abused and
20 Neglected Long Term Care Facility Residents Reporting Act;
21 and

22 (xii) in accordance with Section 55 of the Abuse of
23 Adults with Disabilities Intervention Act.

24 Any person, institution, or agency, under this Act,
25 participating in good faith in the making of a report under the
26 Abused and Neglected Child Reporting Act or in the disclosure
27 of records and communications under this Section, shall have
28 immunity from any liability, civil, criminal or otherwise, that
29 might result by reason of such action. For the purpose of any
30 proceeding, civil or criminal, arising out of a report or
31 disclosure under this Section, the good faith of any person,
32 institution, or agency so reporting or disclosing shall be
33 presumed.

34 (Source: P.A. 90-423, eff. 8-15-97; 90-538, eff. 12-1-97;
35 90-655, eff. 7-30-98; 91-357, eff. 7-29-99.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.