



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB3067

Introduced 1/20/2006, by Sen. Christine Radogno

#### SYNOPSIS AS INTRODUCED:

5 ILCS 120/2	from Ch. 102, par. 42
5 ILCS 140/7	from Ch. 116, par. 207
55 ILCS 5/3-3020	from Ch. 34, par. 3-3020
210 ILCS 28/5	
210 ILCS 28/10	
210 ILCS 28/15	
210 ILCS 28/20	
210 ILCS 28/25	
210 ILCS 28/30	
210 ILCS 28/35	
210 ILCS 28/40	
210 ILCS 28/45 new	
210 ILCS 28/50 new	
210 ILCS 28/85	
210 ILCS 45/3-213	from Ch. 111 1/2, par. 4153-213

Amends the Counties Code, the Abuse Prevention Review Team Act, and the Nursing Home Care Act. Requires a nursing home administrator to notify the coroner or medical examiner within 24 hours of the death of a nursing home resident; makes a failure to do so a Class A misdemeanor. Provides for a single Residential Health Care Facility Resident Sexual Assault And Death Review Team instead of multiple review teams. Requires the Review Team to review a nursing home resident's death (i) if the resident's death results in the Department of Public Health issuing a notice of violation under the Nursing Home Care Act (instead of if the Department found that the resident's care violated federal or State standards within the 6 months preceding the resident's death) or (ii) if the resident's death was reported to the coroner or medical examiner as required under certain provisions of the Nursing Home Care Act (instead of if the resident's care was the subject of a complaint to the Department). Requires the Department to include the Review Team's activities in its annual Long-Term Care Report to the General Assembly. Extends the repeal of the Abuse Prevention Review Team Act from July 1, 2006 to July 1, 2011. Makes other changes. Amends the Open Meetings Act and the Freedom of Information Act to make conforming changes. Effective immediately.

LRB094 19123 DRJ 54644 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning regulation.

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

4 Section 2. The Open Meetings Act is amended by changing  
5 Section 2 as follows:

6 (5 ILCS 120/2) (from Ch. 102, par. 42)

7 Sec. 2. Open meetings.

8 (a) Openness required. All meetings of public bodies shall  
9 be open to the public unless excepted in subsection (c) and  
10 closed in accordance with Section 2a.

11 (b) Construction of exceptions. The exceptions contained  
12 in subsection (c) are in derogation of the requirement that  
13 public bodies meet in the open, and therefore, the exceptions  
14 are to be strictly construed, extending only to subjects  
15 clearly within their scope. The exceptions authorize but do not  
16 require the holding of a closed meeting to discuss a subject  
17 included within an enumerated exception.

18 (c) Exceptions. A public body may hold closed meetings to  
19 consider the following subjects:

20 (1) The appointment, employment, compensation,  
21 discipline, performance, or dismissal of specific  
22 employees of the public body or legal counsel for the  
23 public body, including hearing testimony on a complaint  
24 lodged against an employee of the public body or against  
25 legal counsel for the public body to determine its  
26 validity.

27 (2) Collective negotiating matters between the public  
28 body and its employees or their representatives, or  
29 deliberations concerning salary schedules for one or more  
30 classes of employees.

31 (3) The selection of a person to fill a public office,  
32 as defined in this Act, including a vacancy in a public

1 office, when the public body is given power to appoint  
2 under law or ordinance, or the discipline, performance or  
3 removal of the occupant of a public office, when the public  
4 body is given power to remove the occupant under law or  
5 ordinance.

6 (4) Evidence or testimony presented in open hearing, or  
7 in closed hearing where specifically authorized by law, to  
8 a quasi-adjudicative body, as defined in this Act, provided  
9 that the body prepares and makes available for public  
10 inspection a written decision setting forth its  
11 determinative reasoning.

12 (5) The purchase or lease of real property for the use  
13 of the public body, including meetings held for the purpose  
14 of discussing whether a particular parcel should be  
15 acquired.

16 (6) The setting of a price for sale or lease of  
17 property owned by the public body.

18 (7) The sale or purchase of securities, investments, or  
19 investment contracts.

20 (8) Security procedures and the use of personnel and  
21 equipment to respond to an actual, a threatened, or a  
22 reasonably potential danger to the safety of employees,  
23 students, staff, the public, or public property.

24 (9) Student disciplinary cases.

25 (10) The placement of individual students in special  
26 education programs and other matters relating to  
27 individual students.

28 (11) Litigation, when an action against, affecting or  
29 on behalf of the particular public body has been filed and  
30 is pending before a court or administrative tribunal, or  
31 when the public body finds that an action is probable or  
32 imminent, in which case the basis for the finding shall be  
33 recorded and entered into the minutes of the closed  
34 meeting.

35 (12) The establishment of reserves or settlement of  
36 claims as provided in the Local Governmental and

1 Governmental Employees Tort Immunity Act, if otherwise the  
2 disposition of a claim or potential claim might be  
3 prejudiced, or the review or discussion of claims, loss or  
4 risk management information, records, data, advice or  
5 communications from or with respect to any insurer of the  
6 public body or any intergovernmental risk management  
7 association or self insurance pool of which the public body  
8 is a member.

9 (13) Conciliation of complaints of discrimination in  
10 the sale or rental of housing, when closed meetings are  
11 authorized by the law or ordinance prescribing fair housing  
12 practices and creating a commission or administrative  
13 agency for their enforcement.

14 (14) Informant sources, the hiring or assignment of  
15 undercover personnel or equipment, or ongoing, prior or  
16 future criminal investigations, when discussed by a public  
17 body with criminal investigatory responsibilities.

18 (15) Professional ethics or performance when  
19 considered by an advisory body appointed to advise a  
20 licensing or regulatory agency on matters germane to the  
21 advisory body's field of competence.

22 (16) Self evaluation, practices and procedures or  
23 professional ethics, when meeting with a representative of  
24 a statewide association of which the public body is a  
25 member.

26 (17) The recruitment, credentialing, discipline or  
27 formal peer review of physicians or other health care  
28 professionals for a hospital, or other institution  
29 providing medical care, that is operated by the public  
30 body.

31 (18) Deliberations for decisions of the Prisoner  
32 Review Board.

33 (19) Review or discussion of applications received  
34 under the Experimental Organ Transplantation Procedures  
35 Act.

36 (20) The classification and discussion of matters

1 classified as confidential or continued confidential by  
2 the State Employees Suggestion Award Board.

3 (21) Discussion of minutes of meetings lawfully closed  
4 under this Act, whether for purposes of approval by the  
5 body of the minutes or semi-annual review of the minutes as  
6 mandated by Section 2.06.

7 (22) Deliberations for decisions of the State  
8 Emergency Medical Services Disciplinary Review Board.

9 (23) The operation by a municipality of a municipal  
10 utility or the operation of a municipal power agency or  
11 municipal natural gas agency when the discussion involves  
12 (i) contracts relating to the purchase, sale, or delivery  
13 of electricity or natural gas or (ii) the results or  
14 conclusions of load forecast studies.

15 (24) Meetings of ~~a residential health care facility~~  
16 ~~resident sexual assault and death review team or the~~  
17 Residential Health Care Facility Resident Sexual Assault  
18 and Death Review Team ~~Teams Executive Council~~ under the  
19 Abuse Prevention Residential Health Care Facility Resident  
20 ~~Sexual Assault and Death~~ Review Team Act.

21 (d) Definitions. For purposes of this Section:

22 "Employee" means a person employed by a public body whose  
23 relationship with the public body constitutes an  
24 employer-employee relationship under the usual common law  
25 rules, and who is not an independent contractor.

26 "Public office" means a position created by or under the  
27 Constitution or laws of this State, the occupant of which is  
28 charged with the exercise of some portion of the sovereign  
29 power of this State. The term "public office" shall include  
30 members of the public body, but it shall not include  
31 organizational positions filled by members thereof, whether  
32 established by law or by a public body itself, that exist to  
33 assist the body in the conduct of its business.

34 "Quasi-adjudicative body" means an administrative body  
35 charged by law or ordinance with the responsibility to conduct  
36 hearings, receive evidence or testimony and make

1 determinations based thereon, but does not include local  
2 electoral boards when such bodies are considering petition  
3 challenges.

4 (e) Final action. No final action may be taken at a closed  
5 meeting. Final action shall be preceded by a public recital of  
6 the nature of the matter being considered and other information  
7 that will inform the public of the business being conducted.

8 (Source: P.A. 93-57, eff. 7-1-03; 93-79, eff. 7-2-03; 93-422,  
9 eff. 8-5-03; 93-577, eff. 8-21-03; revised 9-8-03.)

10 Section 3. The Freedom of Information Act is amended by  
11 changing Section 7 as follows:

12 (5 ILCS 140/7) (from Ch. 116, par. 207)

13 Sec. 7. Exemptions.

14 (1) The following shall be exempt from inspection and  
15 copying:

16 (a) Information specifically prohibited from  
17 disclosure by federal or State law or rules and regulations  
18 adopted under federal or State law.

19 (b) Information that, if disclosed, would constitute a  
20 clearly unwarranted invasion of personal privacy, unless  
21 the disclosure is consented to in writing by the individual  
22 subjects of the information. The disclosure of information  
23 that bears on the public duties of public employees and  
24 officials shall not be considered an invasion of personal  
25 privacy. Information exempted under this subsection (b)  
26 shall include but is not limited to:

27 (i) files and personal information maintained with  
28 respect to clients, patients, residents, students or  
29 other individuals receiving social, medical,  
30 educational, vocational, financial, supervisory or  
31 custodial care or services directly or indirectly from  
32 federal agencies or public bodies;

33 (ii) personnel files and personal information  
34 maintained with respect to employees, appointees or

1 elected officials of any public body or applicants for  
2 those positions;

3 (iii) files and personal information maintained  
4 with respect to any applicant, registrant or licensee  
5 by any public body cooperating with or engaged in  
6 professional or occupational registration, licensure  
7 or discipline;

8 (iv) information required of any taxpayer in  
9 connection with the assessment or collection of any tax  
10 unless disclosure is otherwise required by State  
11 statute;

12 (v) information revealing the identity of persons  
13 who file complaints with or provide information to  
14 administrative, investigative, law enforcement or  
15 penal agencies; provided, however, that identification  
16 of witnesses to traffic accidents, traffic accident  
17 reports, and rescue reports may be provided by agencies  
18 of local government, except in a case for which a  
19 criminal investigation is ongoing, without  
20 constituting a clearly unwarranted per se invasion of  
21 personal privacy under this subsection; and

22 (vi) the names, addresses, or other personal  
23 information of participants and registrants in park  
24 district, forest preserve district, and conservation  
25 district programs.

26 (c) Records compiled by any public body for  
27 administrative enforcement proceedings and any law  
28 enforcement or correctional agency for law enforcement  
29 purposes or for internal matters of a public body, but only  
30 to the extent that disclosure would:

31 (i) interfere with pending or actually and  
32 reasonably contemplated law enforcement proceedings  
33 conducted by any law enforcement or correctional  
34 agency;

35 (ii) interfere with pending administrative  
36 enforcement proceedings conducted by any public body;

1 (iii) deprive a person of a fair trial or an  
2 impartial hearing;

3 (iv) unavoidably disclose the identity of a  
4 confidential source or confidential information  
5 furnished only by the confidential source;

6 (v) disclose unique or specialized investigative  
7 techniques other than those generally used and known or  
8 disclose internal documents of correctional agencies  
9 related to detection, observation or investigation of  
10 incidents of crime or misconduct;

11 (vi) constitute an invasion of personal privacy  
12 under subsection (b) of this Section;

13 (vii) endanger the life or physical safety of law  
14 enforcement personnel or any other person; or

15 (viii) obstruct an ongoing criminal investigation.

16 (d) Criminal history record information maintained by  
17 State or local criminal justice agencies, except the  
18 following which shall be open for public inspection and  
19 copying:

20 (i) chronologically maintained arrest information,  
21 such as traditional arrest logs or blotters;

22 (ii) the name of a person in the custody of a law  
23 enforcement agency and the charges for which that  
24 person is being held;

25 (iii) court records that are public;

26 (iv) records that are otherwise available under  
27 State or local law; or

28 (v) records in which the requesting party is the  
29 individual identified, except as provided under part

30 (vii) of paragraph (c) of subsection (1) of this  
31 Section.

32 "Criminal history record information" means data  
33 identifiable to an individual and consisting of  
34 descriptions or notations of arrests, detentions,  
35 indictments, informations, pre-trial proceedings, trials,  
36 or other formal events in the criminal justice system or



1 descriptions or notations of criminal charges (including  
2 criminal violations of local municipal ordinances) and the  
3 nature of any disposition arising therefrom, including  
4 sentencing, court or correctional supervision,  
5 rehabilitation and release. The term does not apply to  
6 statistical records and reports in which individuals are  
7 not identified and from which their identities are not  
8 ascertainable, or to information that is for criminal  
9 investigative or intelligence purposes.

10 (e) Records that relate to or affect the security of  
11 correctional institutions and detention facilities.

12 (f) Preliminary drafts, notes, recommendations,  
13 memoranda and other records in which opinions are  
14 expressed, or policies or actions are formulated, except  
15 that a specific record or relevant portion of a record  
16 shall not be exempt when the record is publicly cited and  
17 identified by the head of the public body. The exemption  
18 provided in this paragraph (f) extends to all those records  
19 of officers and agencies of the General Assembly that  
20 pertain to the preparation of legislative documents.

21 (g) Trade secrets and commercial or financial  
22 information obtained from a person or business where the  
23 trade secrets or information are proprietary, privileged  
24 or confidential, or where disclosure of the trade secrets  
25 or information may cause competitive harm, including:

26 (i) All information determined to be confidential  
27 under Section 4002 of the Technology Advancement and  
28 Development Act.

29 (ii) All trade secrets and commercial or financial  
30 information obtained by a public body, including a  
31 public pension fund, from a private equity fund or a  
32 privately held company within the investment portfolio  
33 of a private equity fund as a result of either  
34 investing or evaluating a potential investment of  
35 public funds in a private equity fund. The exemption  
36 contained in this item does not apply to the aggregate

1 financial performance information of a private equity  
2 fund, nor to the identity of the fund's managers or  
3 general partners. The exemption contained in this item  
4 does not apply to the identity of a privately held  
5 company within the investment portfolio of a private  
6 equity fund, unless the disclosure of the identity of a  
7 privately held company may cause competitive harm.

8 Nothing contained in this paragraph (g) shall be construed  
9 to prevent a person or business from consenting to disclosure.

10 (h) Proposals and bids for any contract, grant, or  
11 agreement, including information which if it were  
12 disclosed would frustrate procurement or give an advantage  
13 to any person proposing to enter into a contractor  
14 agreement with the body, until an award or final selection  
15 is made. Information prepared by or for the body in  
16 preparation of a bid solicitation shall be exempt until an  
17 award or final selection is made.

18 (i) Valuable formulae, computer geographic systems,  
19 designs, drawings and research data obtained or produced by  
20 any public body when disclosure could reasonably be  
21 expected to produce private gain or public loss. The  
22 exemption for "computer geographic systems" provided in  
23 this paragraph (i) does not extend to requests made by news  
24 media as defined in Section 2 of this Act when the  
25 requested information is not otherwise exempt and the only  
26 purpose of the request is to access and disseminate  
27 information regarding the health, safety, welfare, or  
28 legal rights of the general public.

29 (j) Test questions, scoring keys and other examination  
30 data used to administer an academic examination or  
31 determined the qualifications of an applicant for a license  
32 or employment.

33 (k) Architects' plans, engineers' technical  
34 submissions, and other construction related technical  
35 documents for projects not constructed or developed in  
36 whole or in part with public funds and the same for

1 projects constructed or developed with public funds, but  
2 only to the extent that disclosure would compromise  
3 security, including but not limited to water treatment  
4 facilities, airport facilities, sport stadiums, convention  
5 centers, and all government owned, operated, or occupied  
6 buildings.

7 (l) Library circulation and order records identifying  
8 library users with specific materials.

9 (m) Minutes of meetings of public bodies closed to the  
10 public as provided in the Open Meetings Act until the  
11 public body makes the minutes available to the public under  
12 Section 2.06 of the Open Meetings Act.

13 (n) Communications between a public body and an  
14 attorney or auditor representing the public body that would  
15 not be subject to discovery in litigation, and materials  
16 prepared or compiled by or for a public body in  
17 anticipation of a criminal, civil or administrative  
18 proceeding upon the request of an attorney advising the  
19 public body, and materials prepared or compiled with  
20 respect to internal audits of public bodies.

21 (o) Information received by a primary or secondary  
22 school, college or university under its procedures for the  
23 evaluation of faculty members by their academic peers.

24 (p) Administrative or technical information associated  
25 with automated data processing operations, including but  
26 not limited to software, operating protocols, computer  
27 program abstracts, file layouts, source listings, object  
28 modules, load modules, user guides, documentation  
29 pertaining to all logical and physical design of  
30 computerized systems, employee manuals, and any other  
31 information that, if disclosed, would jeopardize the  
32 security of the system or its data or the security of  
33 materials exempt under this Section.

34 (q) Documents or materials relating to collective  
35 negotiating matters between public bodies and their  
36 employees or representatives, except that any final

1 contract or agreement shall be subject to inspection and  
2 copying.

3 (r) Drafts, notes, recommendations and memoranda  
4 pertaining to the financing and marketing transactions of  
5 the public body. The records of ownership, registration,  
6 transfer, and exchange of municipal debt obligations, and  
7 of persons to whom payment with respect to these  
8 obligations is made.

9 (s) The records, documents and information relating to  
10 real estate purchase negotiations until those negotiations  
11 have been completed or otherwise terminated. With regard to  
12 a parcel involved in a pending or actually and reasonably  
13 contemplated eminent domain proceeding under Article VII  
14 of the Code of Civil Procedure, records, documents and  
15 information relating to that parcel shall be exempt except  
16 as may be allowed under discovery rules adopted by the  
17 Illinois Supreme Court. The records, documents and  
18 information relating to a real estate sale shall be exempt  
19 until a sale is consummated.

20 (t) Any and all proprietary information and records  
21 related to the operation of an intergovernmental risk  
22 management association or self-insurance pool or jointly  
23 self-administered health and accident cooperative or pool.

24 (u) Information concerning a university's adjudication  
25 of student or employee grievance or disciplinary cases, to  
26 the extent that disclosure would reveal the identity of the  
27 student or employee and information concerning any public  
28 body's adjudication of student or employee grievances or  
29 disciplinary cases, except for the final outcome of the  
30 cases.

31 (v) Course materials or research materials used by  
32 faculty members.

33 (w) Information related solely to the internal  
34 personnel rules and practices of a public body.

35 (x) Information contained in or related to  
36 examination, operating, or condition reports prepared by,

1 on behalf of, or for the use of a public body responsible  
2 for the regulation or supervision of financial  
3 institutions or insurance companies, unless disclosure is  
4 otherwise required by State law.

5 (y) Information the disclosure of which is restricted  
6 under Section 5-108 of the Public Utilities Act.

7 (z) Manuals or instruction to staff that relate to  
8 establishment or collection of liability for any State tax  
9 or that relate to investigations by a public body to  
10 determine violation of any criminal law.

11 (aa) Applications, related documents, and medical  
12 records received by the Experimental Organ Transplantation  
13 Procedures Board and any and all documents or other records  
14 prepared by the Experimental Organ Transplantation  
15 Procedures Board or its staff relating to applications it  
16 has received.

17 (bb) Insurance or self insurance (including any  
18 intergovernmental risk management association or self  
19 insurance pool) claims, loss or risk management  
20 information, records, data, advice or communications.

21 (cc) Information and records held by the Department of  
22 Public Health and its authorized representatives relating  
23 to known or suspected cases of sexually transmissible  
24 disease or any information the disclosure of which is  
25 restricted under the Illinois Sexually Transmissible  
26 Disease Control Act.

27 (dd) Information the disclosure of which is exempted  
28 under Section 30 of the Radon Industry Licensing Act.

29 (ee) Firm performance evaluations under Section 55 of  
30 the Architectural, Engineering, and Land Surveying  
31 Qualifications Based Selection Act.

32 (ff) Security portions of system safety program plans,  
33 investigation reports, surveys, schedules, lists, data, or  
34 information compiled, collected, or prepared by or for the  
35 Regional Transportation Authority under Section 2.11 of  
36 the Regional Transportation Authority Act or the St. Clair

1 County Transit District under the Bi-State Transit Safety  
2 Act.

3 (gg) Information the disclosure of which is restricted  
4 and exempted under Section 50 of the Illinois Prepaid  
5 Tuition Act.

6 (hh) Information the disclosure of which is exempted  
7 under the State Officials and Employees Ethics Act.

8 (ii) Beginning July 1, 1999, information that would  
9 disclose or might lead to the disclosure of secret or  
10 confidential information, codes, algorithms, programs, or  
11 private keys intended to be used to create electronic or  
12 digital signatures under the Electronic Commerce Security  
13 Act.

14 (jj) Information contained in a local emergency energy  
15 plan submitted to a municipality in accordance with a local  
16 emergency energy plan ordinance that is adopted under  
17 Section 11-21.5-5 of the Illinois Municipal Code.

18 (kk) Information and data concerning the distribution  
19 of surcharge moneys collected and remitted by wireless  
20 carriers under the Wireless Emergency Telephone Safety  
21 Act.

22 (ll) Vulnerability assessments, security measures, and  
23 response policies or plans that are designed to identify,  
24 prevent, or respond to potential attacks upon a community's  
25 population or systems, facilities, or installations, the  
26 destruction or contamination of which would constitute a  
27 clear and present danger to the health or safety of the  
28 community, but only to the extent that disclosure could  
29 reasonably be expected to jeopardize the effectiveness of  
30 the measures or the safety of the personnel who implement  
31 them or the public. Information exempt under this item may  
32 include such things as details pertaining to the  
33 mobilization or deployment of personnel or equipment, to  
34 the operation of communication systems or protocols, or to  
35 tactical operations.

36 (mm) Maps and other records regarding the location or

1 security of a utility's generation, transmission,  
2 distribution, storage, gathering, treatment, or switching  
3 facilities.

4 (nn) Law enforcement officer identification  
5 information or driver identification information compiled  
6 by a law enforcement agency or the Department of  
7 Transportation under Section 11-212 of the Illinois  
8 Vehicle Code.

9 (oo) Records and information provided to a ~~residential~~  
10 ~~health care facility resident sexual assault and death~~  
11 ~~review team~~ or the Residential Health Care Facility  
12 Resident Sexual Assault and Death Review Team ~~Teams~~  
13 ~~Executive Council~~ under the Abuse Prevention Residential  
14 ~~Health Care Facility Resident Sexual Assault and Death~~  
15 Review Team Act.

16 (pp) Information provided to the predatory lending  
17 database created pursuant to Article 3 of the Residential  
18 Real Property Disclosure Act, except to the extent  
19 authorized under that Article.

20 (qq) ~~(pp)~~ Defense budgets and petitions for  
21 certification of compensation and expenses for court  
22 appointed trial counsel as provided under Sections 10 and  
23 15 of the Capital Crimes Litigation Act. This subsection  
24 (qq) ~~(pp)~~ shall apply until the conclusion of the trial and  
25 appeal of the case, even if the prosecution chooses not to  
26 pursue the death penalty prior to trial or sentencing.

27 (2) This Section does not authorize withholding of  
28 information or limit the availability of records to the public,  
29 except as stated in this Section or otherwise provided in this  
30 Act.

31 (Source: P.A. 93-43, eff. 7-1-03; 93-209, eff. 7-18-03; 93-237,  
32 eff. 7-22-03; 93-325, eff. 7-23-03, 93-422, eff. 8-5-03;  
33 93-577, eff. 8-21-03; 93-617, eff. 12-9-03; 94-280, eff.  
34 1-1-06; 94-508, eff. 1-1-06; 94-664, eff. 1-1-06; revised  
35 8-29-05.)

1 Section 5. The Counties Code is amended by changing Section  
2 3-3020 as follows:

3 (55 ILCS 5/3-3020) (from Ch. 34, par. 3-3020)

4 Sec. 3-3020. Coroner to be notified; violation.

5 (a) Every law enforcement official, funeral director,  
6 ambulance attendant, hospital director or administrator or  
7 person having custody of the body of a deceased person, where  
8 the death is one subject to investigation under Section 3-3013,  
9 and any physician in attendance upon such a decedent at the  
10 time of his death, shall notify the coroner promptly. Any such  
11 person failing to so notify the coroner promptly shall be  
12 guilty of a Class A misdemeanor, unless such person has  
13 reasonable cause to believe that the coroner had already been  
14 so notified.

15 (b) Every administrator of a long-term care facility  
16 licensed under the Nursing Home Care Act having custody of any  
17 deceased resident of the facility shall notify the coroner or  
18 medical examiner within 24 hours after the death in accordance  
19 with the Nursing Home Care Act by using the prescribed form  
20 developed with assistance from a statewide association  
21 representing coroners or medical examiners. The local coroner  
22 or medical examiner shall submit that report to the Department  
23 and shall also alert the Department to any reported deaths that  
24 should be investigated. Any such person failing to so promptly  
25 notify the coroner or medical examiner shall be guilty of a  
26 Class A misdemeanor, unless such person has reasonable cause to  
27 believe that the notification had already occurred.

28 (Source: P.A. 86-962.)

29 Section 10. The Abuse Prevention Review Team Act is amended  
30 by changing Sections 5, 10, 15, 20, 25, 30, 35, 40, and 85 and  
31 by adding Sections 45 and 50 as follows:

32 (210 ILCS 28/5)

33 (Section scheduled to be repealed on July 1, 2006)



1           Sec. 5. State policy. The following statements are the  
2 policy of this State:

3           (1) Every nursing home resident is entitled to live in  
4 safety and decency and to receive competent and respectful  
5 care that meets the requirements of State and federal law.

6           (2) Responding to sexual assaults of ~~on~~ nursing home  
7 residents and to unnecessary nursing home resident deaths  
8 is a State and a community responsibility.

9           (3) When a nursing home resident is sexually assaulted  
10 or dies unnecessarily, the response by the State and the  
11 community to the assault or death must include an accurate  
12 and complete determination of the cause of the assault or  
13 death and the development and implementation of measures to  
14 prevent future assaults or deaths from similar causes. The  
15 response may include court action, including prosecution  
16 of persons who may be responsible for the assault or death  
17 and proceedings to protect other residents of the facility  
18 where the resident lived, and disciplinary action against  
19 persons who failed to meet their professional  
20 responsibilities to the resident.

21           (4) Professionals from disparate disciplines and  
22 agencies who have responsibilities for nursing home  
23 residents and expertise that can promote resident safety  
24 and well-being should share their expertise and knowledge  
25 so that the goals of determining the causes of sexual  
26 assaults and unnecessary resident deaths, planning and  
27 providing services to surviving residents, and preventing  
28 future assaults and unnecessary deaths can be achieved.

29           (5) A greater understanding of the incidence and causes  
30 of sexual assaults against nursing home residents and  
31 unnecessary nursing home resident deaths is necessary if  
32 the State is to prevent future assaults and unnecessary  
33 deaths.

34           (6) Multi-disciplinary and multi-agency reviews of  
35 sexual assaults against nursing home residents and  
36 unnecessary nursing home resident deaths can assist the

1 State and counties in (i) investigating resident sexual  
 2 assaults and deaths, (ii) developing a greater  
 3 understanding of the incidence and causes of resident  
 4 sexual assault and deaths and the methods for preventing  
 5 those assaults and deaths, and (iii) identifying gaps in  
 6 services to nursing home residents.

7 (7) Access to information regarding assaulted and  
 8 deceased nursing home residents by one multi-disciplinary  
 9 and multi-agency Residential Health Care Facility Resident  
 10 Sexual Assault And Death Review Team ~~nursing home resident~~  
 11 ~~sexual assault and death review teams~~ is necessary for the  
 12 Review Team ~~those teams~~ to fulfill its ~~achieve their~~  
 13 purposes and duties.

14 (Source: P.A. 93-577, eff. 8-21-03.)

15 (210 ILCS 28/10)

16 (Section scheduled to be repealed on July 1, 2006)

17 Sec. 10. Definitions. As used in this Act, unless the  
 18 context requires otherwise:

19 "Department" means the Department of Public Health.

20 "Director" means the Director of Public Health.

21 ~~"Executive Council" means the Illinois Residential Health~~  
 22 ~~Care Facility Resident Sexual Assault and Death Review Teams~~  
 23 ~~Executive Council.~~

24 "Resident" means a person residing in and receiving  
 25 personal care from a facility licensed under the Nursing Home  
 26 Care Act.

27 "Review Team ~~team~~" means the Residential Health Care  
 28 Facility Resident Sexual Assault And Death Review Team ~~a~~  
 29 ~~residential health care facility resident sexual assault and~~  
 30 ~~death review team~~ appointed under this Act.

31 (Source: P.A. 93-577, eff. 8-21-03.)

32 (210 ILCS 28/15)

33 (Section scheduled to be repealed on July 1, 2006)

34 Sec. 15. Review Team; establishment. ~~Residential health~~

1 ~~care facility resident sexual assault and death review teams;~~  
2 ~~establishment.~~

3 (a) The Director, in consultation with ~~the Executive~~  
4 ~~Council and with~~ law enforcement agencies and other  
5 professionals who work in the field of investigating, treating,  
6 or preventing nursing home resident abuse or neglect in ~~each of~~  
7 ~~the Department's administrative regions of~~ the State, shall  
8 appoint members to the Residential Health Care Facility  
9 Resident Sexual Assault And Death Review Team ~~a residential~~  
10 ~~health care facility resident sexual assault and death review~~  
11 ~~team in each such region outside Cook County and to at least~~  
12 ~~one review team in Cook County.~~ The members of the Review Team  
13 ~~a team~~ shall be appointed for 2-year staggered terms and shall  
14 be eligible for reappointment upon the expiration of their  
15 terms.

16 (b) The Review Team ~~Each review team~~ shall consist of at  
17 least one member from each of the following categories:

18 (1) Geriatrician or other physician knowledgeable  
19 about nursing home resident abuse and neglect.

20 (2) Representative of the Department.

21 (3) State's Attorney or State's Attorney's  
22 representative.

23 (4) Representative of a local law enforcement agency.

24 (5) Representative of the Illinois Attorney General.

25 (6) Psychologist or psychiatrist.

26 (7) Representative of a local health department.

27 (8) Representative of a social service or health care  
28 agency that provides services to persons with mental  
29 illness, in a program whose accreditation to provide such  
30 services is recognized by the Office of Mental Health  
31 within the Department of Human Services.

32 (9) Representative of a social service or health care  
33 agency that provides services to persons with  
34 developmental disabilities, in a program whose  
35 accreditation to provide such services is recognized by the  
36 Office of Developmental Disabilities within the Department

1 of Human Services.

2 (10) Coroner or forensic pathologist.

3 (11) Representative of the local sub-state ombudsman.

4 (12) Representative of a nursing home resident  
5 advocacy organization.

6 (13) Representative of a local hospital, trauma  
7 center, or provider of emergency medical services.

8 (14) Representative of an organization that represents  
9 nursing homes.

10 The Review Team ~~Each review team~~ may make recommendations  
11 to the Director concerning additional appointments. Each  
12 Review Team ~~review team~~ member must have demonstrated  
13 experience and an interest in investigating, treating, or  
14 preventing nursing home resident abuse or neglect.

15 (c) The Review Team ~~Each review team~~ shall select a  
16 chairperson from among its members. ~~The chairperson shall also~~  
17 ~~serve on the Illinois Residential Health Care Facility Sexual~~  
18 ~~Assault and Death Review Teams Executive Council.~~

19 (Source: P.A. 93-577, eff. 8-21-03.)

20 (210 ILCS 28/20)

21 (Section scheduled to be repealed on July 1, 2006)

22 Sec. 20. Reviews of nursing home resident sexual assaults  
23 and deaths.

24 (a) Every reported case of sexual assault of a nursing home  
25 resident that results in the Department issuing any notice of  
26 violation under the Nursing Home Care Act ~~is confirmed~~ shall be  
27 reviewed by the Review Team ~~review team for the region that has~~  
28 ~~primary case management responsibility.~~

29 (b) Every death of a nursing home resident shall be  
30 reviewed by the Review Team ~~review team for the region that has~~  
31 ~~primary case management responsibility,~~ if the deceased  
32 resident is one of the following:

33 (1) A person whose death results in the Department  
34 issuing any notice of violation under the Nursing Home Care  
35 Act ~~care the Department found violated federal or State~~

1 ~~standards in the 6 months preceding the resident's death.~~

2 (2) A person whose death was reported to the Department  
3 for investigation pursuant to the reporting requirements  
4 for coroners and medical examiners under subsection (b) of  
5 Section 3-213 of the Nursing Home Care Act ~~care was the~~  
6 ~~subject of a complaint to the Department in the 30 days~~  
7 ~~preceding the resident's death, or after the resident's~~  
8 ~~death. A review team may, at its discretion, review other~~  
9 ~~sudden, unexpected, or unexplained nursing home resident~~  
10 ~~deaths.~~

11 (c) The Review Team's ~~(b) A review team's~~ purpose in  
12 conducting reviews of resident sexual assaults and deaths is to  
13 do the following:

14 (1) Assist in determining the cause and manner of the  
15 resident's assault or death, when requested.

16 (2) Evaluate means, if any, by which the assault or  
17 death might have been prevented.

18 (3) Report its findings to the Director ~~appropriate~~  
19 ~~agencies~~ and make recommendations that may help to reduce  
20 the number of sexual assaults on and unnecessary deaths of  
21 nursing home residents.

22 (4) Promote continuing education for professionals  
23 involved in investigating, treating, and preventing  
24 nursing home resident abuse and neglect as a means of  
25 preventing sexual assaults and unnecessary deaths of  
26 nursing home residents.

27 (5) Make specific recommendations to the Director  
28 concerning the prevention of sexual assaults and  
29 unnecessary deaths of nursing home residents and the  
30 establishment of protocols for investigating resident  
31 sexual assaults and deaths.

32 (d) The Review Team ~~(e) A review team~~ must review the a  
33 sexual assault or death cases submitted to it on a quarterly  
34 basis. The Review Team ~~as soon as practicable and not later~~  
35 ~~than 90 days following the completion by the Department of the~~  
36 ~~investigation of the assault or death under the Nursing Home~~

1 ~~Care Act. When there has been no investigation by the~~  
2 ~~Department, the review team must review a sexual assault or~~  
3 ~~death within 90 days after obtaining the information necessary~~  
4 ~~to complete the review from the coroner, pathologist, medical~~  
5 ~~examiner, or law enforcement agency, depending on the nature of~~  
6 ~~the case. A review team must meet at least once in each~~  
7 calendar quarter.

8 (e) The Review Team shall regularly report its findings and  
9 recommendations to the Director. ~~(d)~~ Within 90 days after  
10 receiving recommendations made by the Review Team ~~a review team~~  
11 under item (5) of subsection (c) ~~(b)~~, the Director must review  
12 those recommendations and respond to the Review Team ~~review~~  
13 ~~team~~. The Director shall implement recommendations as feasible  
14 and appropriate and shall respond to the Review Team ~~review~~  
15 ~~team~~ in writing to explain the implementation or  
16 nonimplementation of the recommendations.

17 (f) ~~(e)~~ In any instance when the Review Team ~~a review team~~  
18 does not operate in accordance with established protocol, the  
19 Director, ~~in consultation and cooperation with the Executive~~  
20 ~~Council,~~ must take any necessary actions to bring the Review  
21 Team ~~review team~~ into compliance with the protocol.

22 (Source: P.A. 93-577, eff. 8-21-03.)

23 (210 ILCS 28/25)

24 (Section scheduled to be repealed on July 1, 2006)

25 Sec. 25. Review Team ~~team~~ access to information. ~~(a)~~ The  
26 Department shall provide to the Review Team ~~a review team,~~ on  
27 ~~the request of the review team chairperson,~~ all records and  
28 information in the Department's possession that are relevant to  
29 the Review Team's ~~review team's~~ review of a sexual assault or  
30 death described in subsection (b) of Section 20, including  
31 records and information concerning previous reports or  
32 investigations of suspected abuse or neglect.

33 ~~(b) A review team shall have access to all records and~~  
34 ~~information that are relevant to its review of a sexual assault~~  
35 ~~or death and in the possession of a State or local governmental~~

1 ~~agency. These records and information include, without~~  
2 ~~limitation, death certificates, all relevant medical and~~  
3 ~~mental health records, records of law enforcement agency~~  
4 ~~investigations, records of coroner or medical examiner~~  
5 ~~investigations, records of the Department of Corrections~~  
6 ~~concerning a person's parole, records of a probation and court~~  
7 ~~services department, and records of a social services agency~~  
8 ~~that provided services to the resident.~~

9 (Source: P.A. 93-577, eff. 8-21-03.)

10 (210 ILCS 28/30)

11 (Section scheduled to be repealed on July 1, 2006)

12 Sec. 30. Public access to information.

13 (a) Meetings of the Review Team ~~review teams and the~~  
14 ~~Executive Council~~ shall be closed to the public. Meetings of  
15 the Review Team ~~review teams and the Executive Council~~ are not  
16 subject to the Open Meetings Act, as provided in that Act.

17 (b) Records and information provided to the Review Team ~~a~~  
18 ~~review team and the Executive Council~~, and records maintained by  
19 the Review Team ~~a review team or the Executive Council~~, are  
20 confidential and not subject to the Freedom of Information Act,  
21 as provided in that Act. ~~Nothing contained in this subsection~~  
22 ~~(b) prevents the sharing or disclosure of records, other than~~  
23 ~~those produced by a review team or the Executive Council,~~  
24 ~~relating or pertaining to the sexual assault or death of a~~  
25 ~~resident.~~

26 (c) Members of the Review Team ~~a review team and the~~  
27 ~~Executive Council~~ are not subject to examination, in any civil  
28 or criminal proceeding, concerning information presented to  
29 members of the Review Team ~~review team or the Executive Council~~  
30 or opinions formed by members of the Review Team ~~review team or~~  
31 ~~the Executive Council~~ based on that information. ~~A person may,~~  
32 ~~however, be examined concerning information provided to a~~  
33 ~~review team or the Executive Council that is otherwise~~  
34 ~~available to the public.~~

35 (d) Records and information produced by the Review Team ~~a~~

1 ~~review team and the Executive Council~~ are not subject to  
2 discovery or subpoena and are not admissible as evidence in any  
3 civil, administrative, or criminal proceeding. ~~Those records~~  
4 ~~and information are, however, subject to discovery or a~~  
5 ~~subpoena, and are admissible as evidence, to the extent they~~  
6 ~~are otherwise available to the public.~~

7 (Source: P.A. 93-577, eff. 8-21-03.)

8 (210 ILCS 28/35)

9 (Section scheduled to be repealed on July 1, 2006)

10 Sec. 35. Indemnification. The State shall indemnify and  
11 hold harmless members of the Review Team ~~a review team and the~~  
12 ~~Executive Council~~ for all their acts, omissions, decisions, or  
13 other conduct arising out of the scope of their service on the  
14 Review Team ~~review team or Executive Council~~, except those  
15 involving willful or wanton misconduct. The method of providing  
16 indemnification shall be as provided in the State Employee  
17 Indemnification Act.

18 (Source: P.A. 93-577, eff. 8-21-03.)

19 (210 ILCS 28/40)

20 (Section scheduled to be repealed on July 1, 2006)

21 Sec. 40. Review Team; duties ~~Executive Council~~.

22 ~~(a) The Illinois Residential Health Care Facility Resident~~  
23 ~~Sexual Assault and Death Review Teams Executive Council,~~  
24 ~~consisting of the chairperson of each review team established~~  
25 ~~under Section 15, is the coordinating and oversight body for~~  
26 ~~residential health care facility resident sexual assault and~~  
27 ~~death review teams and activities in Illinois. The~~  
28 ~~vice chairperson of a review team, as designated by the~~  
29 ~~chairperson, may serve as a back-up member or an alternate~~  
30 ~~member of the Executive Council, if the chairperson of the~~  
31 ~~review team is unavailable to serve on the Executive Council.~~  
32 ~~The Director may appoint to the Executive Council any~~  
33 ~~ex-officio members deemed necessary. Persons with expertise~~  
34 ~~needed by the Executive Council may be invited to meetings. The~~



1 ~~Executive Council must select from its members a chairperson~~  
2 ~~and a vice chairperson, each to serve a 2-year, renewable term.~~  
3 ~~The Executive Council must meet at least 4 times during each~~  
4 ~~calendar year.~~

5 (a) ~~(b)~~ The Department must provide or arrange for the  
6 staff support necessary for the Review Team ~~Executive Council~~  
7 to carry out its duties.

8 (b) ~~(c)~~ The Review Team ~~Executive Council~~ has, but is not  
9 limited to, the following duties:

10 (1) To request assistance from the Department as needed  
11 ~~serve as the voice of review teams in Illinois.~~

12 (2) To consult with the Director concerning the  
13 appointment, reappointment, and removal of Review Team  
14 ~~review team~~ members.

15 (3) To ~~oversee the review teams in order to~~ ensure that  
16 its the teams' work is coordinated and in compliance with  
17 the statutes and the operating protocol.

18 (4) To ensure that the data, results, findings, and  
19 recommendations of the Review Team ~~review teams~~ are  
20 adequately used to make any necessary changes in the  
21 policies, procedures, and statutes in order to protect  
22 nursing home residents in a timely manner.

23 (5) To collaborate with ~~the General Assembly,~~ the  
24 Department, ~~and others in order~~ to develop any legislation  
25 needed to prevent nursing home resident sexual assaults and  
26 unnecessary deaths and to protect nursing home residents.

27 (6) To assist in the development of an ~~quarterly and~~  
28 annual report ~~reports~~ based on the work and the findings of  
29 the Review Team ~~review teams~~.

30 (7) To ensure that the Review Team's ~~review teams'~~  
31 review processes are standardized in order to convey data,  
32 findings, and recommendations in a usable format.

33 (8) To serve as a link with other review teams  
34 throughout the country and to participate in national  
35 review team activities.

36 ~~(9) To develop an annual statewide symposium to update~~

1 ~~the knowledge and skills of review team members and to~~  
2 ~~promote the exchange of information between review teams.~~

3 (9) ~~(10)~~ To provide the Review Team members ~~review~~  
4 ~~teams~~ with the most current information and practices  
5 concerning nursing home resident sexual assault and  
6 unnecessary death review and related topics.

7 (10) ~~(11)~~ To perform any other functions necessary to  
8 enhance the capability of the Review Team ~~review teams~~ to  
9 reduce and prevent sexual assaults and unnecessary deaths  
10 of nursing home residents.

11 (Source: P.A. 93-577, eff. 8-21-03.)

12 (210 ILCS 28/45 new)

13 Sec. 45. Department's annual report. The Department shall  
14 include as an addition to its annual Long-Term Care Report to  
15 the General Assembly a report of the activities of the Review  
16 Team, the results of the Review Team's findings,  
17 recommendations made to the Department by the Review Team, and,  
18 as applicable, either (i) the implementation of the  
19 recommendations or (ii) the reasons the recommendations were  
20 not implemented.

21 (210 ILCS 28/50 new)

22 Sec. 50. Reports to and by coroner or medical examiner.  
23 Every facility licensed under the Nursing Home Care Act shall  
24 report deaths of residents of the facility to the coroner or  
25 medical examiner as required under the Nursing Home Care Act.  
26 The local coroner or medical examiner shall submit each such  
27 report to the Department and shall also alert the Department to  
28 any reported deaths that should be investigated.

29 (210 ILCS 28/85)

30 (Section scheduled to be repealed on July 1, 2006)

31 Sec. 85. Repeal. This Act is repealed on July 1, 2011 ~~2006~~.

32 (Source: P.A. 93-577, eff. 8-21-03.)

1 Section 15. The Nursing Home Care Act is amended by  
2 changing Section 3-213 as follows:

3 (210 ILCS 45/3-213) (from Ch. 111 1/2, par. 4153-213)

4 Sec. 3-213. Reports; access and copying.

5 (a) The Department shall require periodic reports and shall  
6 have access to and may reproduce or photocopy at its cost any  
7 books, records, and other documents maintained by the facility  
8 to the extent necessary to carry out this Act and the rules  
9 promulgated under this Act. The Department shall not divulge or  
10 disclose the contents of a record under this Section in  
11 violation of Section 2-206 or as otherwise prohibited by this  
12 Act.

13 (b) Within 24 hours after the death of a resident of a  
14 facility, the facility must submit a report of the resident's  
15 death to the local coroner or medical examiner. If a former  
16 resident of a facility dies within 30 days after being  
17 discharged from the facility, the facility shall submit a  
18 report of the resident's death to the local coroner or medical  
19 examiner within 24 hours after learning of the former  
20 resident's death. The Department, in an effort to identify all  
21 deaths occurring in long-term care facilities in the State,  
22 shall develop, with assistance from a statewide association  
23 representing coroners or medical examiners, a reporting format  
24 to be used on a mandatory basis by all long-term care  
25 facilities in the State in reporting deaths under this  
26 subsection. Upon receiving a report of a death under this  
27 subsection, the local coroner or medical examiner shall forward  
28 a copy of that report to the Department and shall also alert  
29 the Department to any reported deaths that should be  
30 investigated.

31 (Source: P.A. 83-1530.)

32 Section 99. Effective date. This Act takes effect upon  
33 becoming law.