



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB5703

by Rep. Dennis M. Reboletti

#### SYNOPSIS AS INTRODUCED:

210 ILCS 45/3-702

from Ch. 111 1/2, par. 4153-702

Amends the Nursing Home Care Act. Provides that a complaint regarding an alleged violation of the Nursing Home Care Act may be transmitted to the Department of Public Health by electronic means. Provides that when a person requests that the Department of Public Health investigate an alleged violation of the Nursing Home Care Act, the Department shall require (instead of shall request) the complainant's identifying information. Allows the complainant to request that his or her identifying information remain confidential or that the complaint be treated as anonymous, and requires the Department to maintain the complainant's confidentiality or anonymity unless: (1) the complainant consents to the disclosure in writing, (2) the Department's investigation results in a judicial proceeding, (3) disclosure of the complainant's identity is essential to the investigation, or (4) disclosure of the complainant's identity is essential for the purposes of investigating or prosecuting the complainant's alleged knowing transmission of a false report to the Department. Effective immediately.

LRB098 17565 RPS 52674 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 5. The Nursing Home Care Act is amended by changing  
5 Section 3-702 as follows:

6 (210 ILCS 45/3-702) (from Ch. 111 1/2, par. 4153-702)

7 Sec. 3-702. (a) A person who believes that this Act or a  
8 rule promulgated under this Act may have been violated may  
9 request an investigation. The request may be submitted to the  
10 Department in writing, by telephone, by electronic means, or by  
11 personal visit. An oral complaint shall be reduced to writing  
12 by the Department. The Department shall require ~~request~~  
13 information identifying the complainant, including the name,  
14 address and telephone number, to help enable appropriate  
15 follow-up. The complainant may request to have his or her  
16 identifying information be kept confidential or to have the  
17 complaint be treated as an anonymous complaint. If the  
18 complainant requests to have his or her information kept  
19 confidential or that the complaint be treated as anonymous,  
20 then the complainant's identifying information shall not be  
21 disclosed unless the provisions of subsection (c) of this  
22 Section apply or the disclosure is essential to the  
23 investigation or prosecution of the complainant's alleged

1 knowing transmission of a false report to the Department. The  
2 Department shall act on such complaints via on-site visits or  
3 other methods deemed appropriate to handle the complaints ~~with~~  
4 ~~or without such identifying information, as otherwise provided~~  
5 ~~under this Section.~~ The complainant shall be informed that  
6 compliance with such request is ~~not~~ required to satisfy the  
7 procedures for filing a complaint under this Act.

8 (b) The substance of the complaint shall be provided in  
9 writing to the licensee, owner or administrator no earlier than  
10 at the commencement of an on-site inspection of the facility  
11 which takes place pursuant to the complaint.

12 (c) The Department shall not disclose the name of the  
13 complainant unless the complainant consents in writing to the  
14 disclosure or the investigation results in a judicial  
15 proceeding, or unless disclosure is essential to the  
16 investigation. The complainant shall be given the opportunity  
17 to withdraw the complaint before disclosure. Upon the request  
18 of the complainant, the Department may permit the complainant  
19 or a representative of the complainant to accompany the person  
20 making the on-site inspection of the facility.

21 (d) Upon receipt of a complaint, the Department shall  
22 determine whether this Act or a rule promulgated under this Act  
23 has been or is being violated. The Department shall investigate  
24 all complaints alleging abuse or neglect within 7 days after  
25 the receipt of the complaint except that complaints of abuse or  
26 neglect which indicate that a resident's life or safety is in

1 imminent danger shall be investigated within 24 hours after  
2 receipt of the complaint. All other complaints shall be  
3 investigated within 30 days after the receipt of the complaint.  
4 The Department employees investigating a complaint shall  
5 conduct a brief, informal exit conference with the facility to  
6 alert its administration of any suspected serious deficiency  
7 that poses a direct threat to the health, safety or welfare of  
8 a resident to enable an immediate correction for the  
9 alleviation or elimination of such threat. Such information and  
10 findings discussed in the brief exit conference shall become a  
11 part of the investigating record but shall not in any way  
12 constitute an official or final notice of violation as provided  
13 under Section 3-301. All complaints shall be classified as "an  
14 invalid report", "a valid report", or "an undetermined report".  
15 For any complaint classified as "a valid report", the  
16 Department must determine within 30 working days if any rule or  
17 provision of this Act has been or is being violated.

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

21 (e) In all cases, the Department shall inform the  
22 complainant of its findings within 10 days of its determination  
23 unless otherwise indicated by the complainant, and the  
24 complainant may direct the Department to send a copy of such  
25 findings to another person. The Department's findings may  
26 include comments or documentation provided by either the

1 complainant or the licensee pertaining to the complaint. The  
2 Department shall also notify the facility of such findings  
3 within 10 days of the determination, but the name of the  
4 complainant or residents shall not be disclosed in this notice  
5 to the facility. The notice of such findings shall include a  
6 copy of the written determination; the correction order, if  
7 any; the warning notice, if any; the inspection report; or the  
8 State licensure form on which the violation is listed.

9 (f) A written determination, correction order, or warning  
10 notice concerning a complaint, together with the facility's  
11 response, shall be available for public inspection, but the  
12 name of the complainant or resident shall not be disclosed  
13 without his consent.

14 (g) A complainant who is dissatisfied with the  
15 determination or investigation by the Department may request a  
16 hearing under Section 3-703. The facility shall be given notice  
17 of any such hearing and may participate in the hearing as a  
18 party. If a facility requests a hearing under Section 3-703  
19 which concerns a matter covered by a complaint, the complainant  
20 shall be given notice and may participate in the hearing as a  
21 party. A request for a hearing by either a complainant or a  
22 facility shall be submitted in writing to the Department within  
23 30 days after the mailing of the Department's findings as  
24 described in subsection (e) of this Section. Upon receipt of  
25 the request the Department shall conduct a hearing as provided  
26 under Section 3-703.

1           (h) Any person who knowingly transmits a false report to  
2 the Department commits the offense of disorderly conduct under  
3 subsection (a) (8) of Section 26-1 of the Criminal Code of 2012.  
4 (Source: P.A. 97-1150, eff. 1-25-13.)

5           Section 99. Effective date. This Act takes effect upon  
6 becoming law.