



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB5601

by Rep. Michael Unes

#### SYNOPSIS AS INTRODUCED:

210 ILCS 45/3-702 from Ch. 111 1/2, par. 4153-702  
210 ILCS 46/3-702  
210 ILCS 47/3-702

Amends the Nursing Home Care Act, the MC/DD Act, and the ID/DD Community Care Act. Changes provisions concerning complaints. Provides that the Department of Public Health shall require, instead of request, specified identifying information from complainants. Provides that such identifying information will be kept confidential and complainants shall be made aware that the information is confidential. Provides that the complainant shall be informed of possible sanctions for knowingly or willfully transmitting a false report to the Department. Requires the Department to impose a civil penalty of \$250 on complainants if it has a good faith belief that a complaint is frivolous, intended to harass, or intended to defraud the Department. Requires the Department to maintain an internal list of such complainants. Provides that complaints may be classified as "false reports". Provides that false reports shall also be considered disorderly conduct under the Criminal Code of 2012. Effective immediately.

LRB099 19005 MJP 43394 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 make available, through  
13 its website and upon request, information regarding the oral  
14 and phone intake processes and the list of questions that will  
15 be asked of the complainant. The Department shall require  
16 ~~request~~ information identifying the complainant, including the  
17 name, address and telephone number, to help enable appropriate  
18 follow-up. This identifying information is to be kept strictly  
19 confidential within the Department and the complainant shall be  
20 made aware of this confidentiality provision. The Department  
21 shall act on such complaints via on-site visits or other  
22 methods deemed appropriate to handle the complaints with ~~or~~  
23 ~~without~~ such identifying information, as otherwise provided

1 under this Section. ~~The complainant shall be informed that~~  
2 ~~compliance with such request is not required to satisfy the~~  
3 ~~procedures for filing a complaint under this Act. The~~  
4 Department must notify complainants that complaints with less  
5 information provided are far more difficult to respond to and  
6 investigate. The complainant shall be informed of possible  
7 sanctions for knowingly and willfully transmitting a false  
8 report to the Department. If the Department has a good faith  
9 belief, based on information that comes to its attention, that  
10 a complaint is frivolous, intended to harass, or intended to  
11 defraud the Department, the Department shall:

12 (1) impose a civil monetary penalty in the amount of  
13 \$250 against the complainant; and

14 (2) keep an internal list of such violators.

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

19 (c) The Department shall not disclose the name of the  
20 complainant unless the complainant consents in writing to the  
21 disclosure or the investigation results in a judicial  
22 proceeding, or unless disclosure is essential to the  
23 investigation. The complainant shall be given the opportunity  
24 to withdraw the complaint before disclosure. Upon the request  
25 of the complainant, the Department may permit the complainant  
26 or a representative of the complainant to accompany the person

1 making the on-site inspection of the facility.

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

26 (d-1) The Department shall, whenever possible, combine an

1 on-site investigation of a complaint in a facility with other  
2 inspections in order to avoid duplication of inspections.

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

17 (f) A written determination, correction order, or warning  
18 notice concerning a complaint, together with the facility's  
19 response, shall be available for public inspection, but the  
20 name of the complainant or resident shall not be disclosed  
21 without his consent.

22 (g) A complainant who is dissatisfied with the  
23 determination or investigation by the Department may request a  
24 hearing under Section 3-703. The facility shall be given notice  
25 of any such hearing and may participate in the hearing as a  
26 party. If a facility requests a hearing under Section 3-703

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

9 (g-5) The Department shall conduct an annual review and  
10 make a report concerning the complaint process that includes  
11 the number of complaints received, the breakdown of anonymous  
12 and non-anonymous complaints and whether the complaints were  
13 substantiated or not, the total number of substantiated  
14 complaints, and any other complaint information requested by  
15 the Long-Term Care Facility Advisory Board created under  
16 Section 2-204 of this Act or the Illinois Long-Term Care  
17 Council created under Section 4.04a of the Illinois Act on the  
18 Aging. This report shall be provided to the Long-Term Care  
19 Facility Advisory Board and the Illinois Long-Term Care  
20 Council. The Long-Term Care Advisory Board and the Illinois  
21 Long-Term Care Council shall review the report and suggest any  
22 changes deemed necessary to the Department for review and  
23 action, including how to investigate and substantiate  
24 anonymous complaints.

25 (h) Any person who knowingly transmits a false report to  
26 the Department pursuant to subsection (a) of this Section also

1 commits the offense of disorderly conduct under subsection  
2 (a) (8) of Section 26-1 of the Criminal Code of 2012.

3 (Source: P.A. 97-1150, eff. 1-25-13; 98-988, eff. 8-18-14;  
4 revised 10-9-15.)

5 Section 10. The MC/DD Act is amended by changing Section  
6 3-702 as follows:

7 (210 ILCS 46/3-702)

8 Sec. 3-702. Request for investigation of violation.

9 (a) A person who believes that this Act or a rule  
10 promulgated under this Act may have been violated may request  
11 an investigation. The request may be submitted to the  
12 Department in writing, by telephone, by electronic means, or by  
13 personal visit. An oral complaint shall be reduced to writing  
14 by the Department. The Department shall make available, through  
15 its website and upon request, information regarding the oral  
16 and phone intake processes and the list of questions that will  
17 be asked of the complainant. The Department shall require  
18 ~~request~~ information identifying the complainant, including the  
19 name, address and telephone number, to help enable appropriate  
20 follow up. This identifying information is to be kept strictly  
21 confidential within the Department and the complainant shall be  
22 made aware of this confidentiality provision. The Department  
23 shall act on such complaints via on-site visits or other  
24 methods deemed appropriate to handle the complaints with ~~or~~

1 ~~without~~ such identifying information, as otherwise provided  
2 under this Section. ~~The complainant shall be informed that~~  
3 ~~compliance with such request is not required to satisfy the~~  
4 ~~procedures for filing a complaint under this Act.~~ The  
5 Department must notify complainants that complaints with less  
6 information provided are far more difficult to respond to and  
7 investigate. The complainant shall be informed of possible  
8 sanctions for knowingly and willfully transmitting a false  
9 report to the Department. If the Department has a good faith  
10 belief, based on information that comes to its attention, that  
11 a complaint is frivolous, intended to harass, or intended to  
12 defraud the Department, the Department shall:

13 (1) impose a civil monetary penalty in the amount of  
14 \$250 against the complainant; and

15 (2) keep an internal list of such violators.

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

20 (c) The Department shall not disclose the name of the  
21 complainant unless the complainant consents in writing to the  
22 disclosure or the investigation results in a judicial  
23 proceeding, or unless disclosure is essential to the  
24 investigation. The complainant shall be given the opportunity  
25 to withdraw the complaint before disclosure. Upon the request  
26 of the complainant, the Department may permit the complainant



1 or a representative of the complainant to accompany the person  
2 making the on-site inspection of the facility.

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

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

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

18 (f) A written determination, correction order, or warning  
19 notice concerning a complaint, together with the facility's  
20 response, shall be available for public inspection, but the  
21 name of the complainant or resident shall not be disclosed  
22 without his or her consent.

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

1 party. If a facility requests a hearing under Section 3-703  
2 which concerns a matter covered by a complaint, the complainant  
3 shall be given notice and may participate in the hearing as a  
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5 facility shall be submitted in writing to the Department within  
6 30 days after the mailing of the Department's findings as  
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8 the request the Department shall conduct a hearing as provided  
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10 (g-5) The Department shall conduct an annual review and  
11 make a report concerning the complaint process that includes  
12 the number of complaints received, the breakdown of anonymous  
13 and non-anonymous complaints and whether the complaints were  
14 substantiated or not, the total number of substantiated  
15 complaints, and any other complaint information requested by  
16 the DD Facility Advisory Board. This report shall be provided  
17 to the DD Facility Advisory Board. The DD Facility Advisory  
18 Board shall review the report and suggest any changes deemed  
19 necessary to the Department for review and action, including  
20 how to investigate and substantiate anonymous complaints.

21 (h) Any person who knowingly transmits a false report to  
22 the Department pursuant to subsection (a) of this Section also  
23 commits the offense of disorderly conduct under subsection  
24 (a) (8) of Section 26-1 of the Criminal Code of 2012.

25 (Source: P.A. 99-180, eff. 7-29-15.)

1 Section 15. The ID/DD Community Care Act is amended by  
2 changing Section 3-702 as follows:

3 (210 ILCS 47/3-702)

4 Sec. 3-702. Request for investigation of violation.

5 (a) A person who believes that this Act or a rule  
6 promulgated under this Act may have been violated may request  
7 an investigation. The request may be submitted to the  
8 Department in writing, by telephone, by electronic means, or by  
9 personal visit. An oral complaint shall be reduced to writing  
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16 (h) Any person who knowingly transmits a false report to  
17 the Department pursuant to subsection (a) of this Section also  
18 commits the offense of disorderly conduct under subsection  
19 (a) (8) of Section 26-1 of the Criminal Code of 2012.

20 (Source: P.A. 97-1150, eff. 1-25-13; 98-988, eff. 8-18-14.)

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law.