

AN ACT concerning health.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

developmental disabilities institutions under the jurisdiction of the Department of Human Services, the Department shall transmit copies of such reports to the Department of State Police, the Department of Human Services, and the Inspector General appointed under Section 6.2. If the Department receives a report of suspected abuse or neglect of a recipient of services as defined in Section 1-123 of the Mental Health and Developmental Disabilities Code, the Department shall transmit copies of such report to the Inspector General and the Directors of the Guardianship and Advocacy Commission and the agency designated by the Governor pursuant to the Protection and Advocacy for Developmentally Disabled Persons Act. When requested by the Director of the Guardianship and Advocacy Commission, ~~or~~ the agency designated by the Governor pursuant to the Protection and Advocacy for Developmentally Disabled Persons Act, or the Department of Financial and Professional Regulation, the Department, the Department of Human Services and the Department of State Police shall make available a copy of the final investigative report regarding investigations conducted by their respective agencies on incidents of suspected abuse or neglect of residents of mental health and developmental disabilities institutions or individuals receiving services at community agencies under the jurisdiction of the Department of Human Services. Such final investigative report shall not contain witness statements, investigation notes, draft summaries, results of lie detector tests, investigative files or other raw data which was used to compile the final investigative report. Specifically, the final investigative report of the Department of State Police shall mean the Director's final transmittal letter. The Department of Human Services shall also make available a copy of the results of disciplinary proceedings of employees involved in incidents of abuse or neglect to the Directors. All identifiable information in reports provided shall not be further disclosed except as provided by the Mental Health and Developmental Disabilities Confidentiality Act. Nothing in

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Public Act 094-0852

SB2782 Enrolled

LRB094 15527 DRJ 50726 b

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