

1 AN ACT concerning State government.

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

4 Section 5. The Department of Human Services Act is amended
5 by changing Section 1-17 as follows:

6 (20 ILCS 1305/1-17)

7 Sec. 1-17. Inspector General.

8 (a) Nature and purpose. It is the express intent of the
9 General Assembly to ensure the health, safety, and financial
10 condition of individuals receiving services in this State due
11 to mental illness, developmental disability, or both by
12 protecting those persons from acts of abuse, neglect, or both
13 by service providers. To that end, the Office of the Inspector
14 General for the Department of Human Services is created to
15 investigate and report upon allegations of the abuse, neglect,
16 or financial exploitation of individuals receiving services
17 within mental health facilities, developmental disabilities
18 facilities, and community agencies operated, licensed, funded,
19 or certified by the Department of Human Services, but not
20 licensed or certified by any other State agency.

21 (b) Definitions. The following definitions apply to this
22 Section:

23 "Agency" or "community agency" means (i) a community

1 agency licensed, funded, or certified by the Department, but
2 not licensed or certified by any other human services agency
3 of the State, to provide mental health service or
4 developmental disabilities service, or (ii) a program
5 licensed, funded, or certified by the Department, but not
6 licensed or certified by any other human services agency of
7 the State, to provide mental health service or developmental
8 disabilities service.

9 "Aggravating circumstance" means a factor that is
10 attendant to a finding and that tends to compound or increase
11 the culpability of the accused.

12 "Allegation" means an assertion, complaint, suspicion, or
13 incident involving any of the following conduct by an
14 employee, facility, or agency against an individual or
15 individuals: mental abuse, physical abuse, sexual abuse,
16 neglect, ~~or~~ financial exploitation, or material obstruction of
17 an investigation.

18 "Day" means working day, unless otherwise specified.

19 "Deflection" means a situation in which an individual is
20 presented for admission to a facility or agency, and the
21 facility staff or agency staff do not admit the individual.

22 "Deflection" includes triage, redirection, and denial of
23 admission.

24 "Department" means the Department of Human Services.

25 "Developmental disability" means "developmental
26 disability" as defined in the Mental Health and Developmental

1 Disabilities Code.

2 "Egregious neglect" means a finding of neglect as
3 determined by the Inspector General that (i) represents a
4 gross failure to adequately provide for, or a callused
5 indifference to, the health, safety, or medical needs of an
6 individual and (ii) results in an individual's death or other
7 serious deterioration of an individual's physical condition or
8 mental condition.

9 "Employee" means any person who provides services at the
10 facility or agency on-site or off-site. The service
11 relationship can be with the individual or with the facility
12 or agency. Also, "employee" includes any employee or
13 contractual agent of the Department of Human Services or the
14 community agency involved in providing or monitoring or
15 administering mental health or developmental disability
16 services. This includes but is not limited to: owners,
17 operators, payroll personnel, contractors, subcontractors, and
18 volunteers.

19 "Facility" or "State-operated facility" means a mental
20 health facility or developmental disabilities facility
21 operated by the Department.

22 "Financial exploitation" means taking unjust advantage of
23 an individual's assets, property, or financial resources
24 through deception, intimidation, or conversion for the
25 employee's, facility's, or agency's own advantage or benefit.

26 "Finding" means the Office of Inspector General's

1 determination regarding whether an allegation is
2 substantiated, unsubstantiated, or unfounded.

3 "Health Care Worker Registry" or "Registry" means the
4 Health Care Worker Registry under the Health Care Worker
5 Background Check Act.

6 "Individual" means any person receiving mental health
7 service, developmental disabilities service, or both from a
8 facility or agency, while either on-site or off-site.

9 "Material obstruction of an investigation" means the
10 purposeful interference with an investigation of physical
11 abuse, sexual abuse, mental abuse, neglect, or financial
12 exploitation and includes, but is not limited to, the
13 withholding or altering of documentation or recorded evidence;
14 influencing, threatening, or impeding witness testimony;
15 presenting untruthful information during an interview; failing
16 to cooperate with an investigation conducted by the Office of
17 the Inspector General. If an employee, following a criminal
18 investigation of physical abuse, sexual abuse, mental abuse,
19 neglect, or financial exploitation, is convicted of an offense
20 that is factually predicated on the employee presenting
21 untruthful information during the course of the investigation,
22 that offense constitutes obstruction of an investigation.
23 Obstruction of an investigation does not include: an
24 employee's lawful exercising of his or her constitutional
25 right against self-incrimination, an employee invoking his or
26 her lawful rights to union representation as provided by a

1 collective bargaining agreement or the Illinois Public Labor
2 Relations Act, or a union representative's lawful activities
3 providing representation under a collective bargaining
4 agreement or the Illinois Public Labor Relations Act.
5 Obstruction of an investigation is considered material when it
6 could significantly impair an investigator's ability to gather
7 all relevant facts. An employee shall not be placed on the
8 Health Care Worker Registry for presenting untruthful
9 information during an interview conducted by the Office of the
10 Inspector General, unless, prior to the interview, the
11 employee was provided with any previous signed statements he
12 or she made during the course of the investigation.

13 "Mental abuse" means the use of demeaning, intimidating,
14 or threatening words, signs, gestures, or other actions by an
15 employee about an individual and in the presence of an
16 individual or individuals that results in emotional distress
17 or maladaptive behavior, or could have resulted in emotional
18 distress or maladaptive behavior, for any individual present.

19 "Mental illness" means "mental illness" as defined in the
20 Mental Health and Developmental Disabilities Code.

21 "Mentally ill" means having a mental illness.

22 "Mitigating circumstance" means a condition that (i) is
23 attendant to a finding, (ii) does not excuse or justify the
24 conduct in question, but (iii) may be considered in evaluating
25 the severity of the conduct, the culpability of the accused,
26 or both the severity of the conduct and the culpability of the

1 accused.

2 "Neglect" means an employee's, agency's, or facility's
3 failure to provide adequate medical care, personal care, or
4 maintenance and that, as a consequence, (i) causes an
5 individual pain, injury, or emotional distress, (ii) results
6 in either an individual's maladaptive behavior or the
7 deterioration of an individual's physical condition or mental
8 condition, or (iii) places the individual's health or safety
9 at substantial risk.

10 "Person with a developmental disability" means a person
11 having a developmental disability.

12 "Physical abuse" means an employee's non-accidental and
13 inappropriate contact with an individual that causes bodily
14 harm. "Physical abuse" includes actions that cause bodily harm
15 as a result of an employee directing an individual or person to
16 physically abuse another individual.

17 "Presenting untruthful information" means making a false
18 statement, material to an investigation of physical abuse,
19 sexual abuse, mental abuse, neglect, or financial
20 exploitation, knowing the statement is false.

21 "Recommendation" means an admonition, separate from a
22 finding, that requires action by the facility, agency, or
23 Department to correct a systemic issue, problem, or deficiency
24 identified during an investigation. "Recommendation" can also
25 mean an admonition to correct a systemic issue, problem or
26 deficiency during a review.

1 "Required reporter" means any employee who suspects,
2 witnesses, or is informed of an allegation of any one or more
3 of the following: mental abuse, physical abuse, sexual abuse,
4 neglect, or financial exploitation.

5 "Secretary" means the Chief Administrative Officer of the
6 Department.

7 "Sexual abuse" means any sexual contact or intimate
8 physical contact between an employee and an individual,
9 including an employee's coercion or encouragement of an
10 individual to engage in sexual behavior that results in sexual
11 contact, intimate physical contact, sexual behavior, or
12 intimate physical behavior. Sexual abuse also includes (i) an
13 employee's actions that result in the sending or showing of
14 sexually explicit images to an individual via computer,
15 cellular phone, electronic mail, portable electronic device,
16 or other media with or without contact with the individual or
17 (ii) an employee's posting of sexually explicit images of an
18 individual online or elsewhere whether or not there is contact
19 with the individual.

20 "Sexually explicit images" includes, but is not limited
21 to, any material which depicts nudity, sexual conduct, or
22 sado-masochistic abuse, or which contains explicit and
23 detailed verbal descriptions or narrative accounts of sexual
24 excitement, sexual conduct, or sado-masochistic abuse.

25 "Substantiated" means there is a preponderance of the
26 evidence to support the allegation.

1 "Unfounded" means there is no credible evidence to support
2 the allegation.

3 "Unsubstantiated" means there is credible evidence, but
4 less than a preponderance of evidence to support the
5 allegation.

6 (c) Appointment. The Governor shall appoint, and the
7 Senate shall confirm, an Inspector General. The Inspector
8 General shall be appointed for a term of 4 years and shall
9 function within the Department of Human Services and report to
10 the Secretary and the Governor.

11 (d) Operation and appropriation. The Inspector General
12 shall function independently within the Department with
13 respect to the operations of the Office, including the
14 performance of investigations and issuance of findings and
15 recommendations and the performance of site visits and reviews
16 of facilities and community agencies. The appropriation for
17 the Office of Inspector General shall be separate from the
18 overall appropriation for the Department.

19 (e) Powers and duties. The Inspector General shall
20 investigate reports of suspected mental abuse, physical abuse,
21 sexual abuse, neglect, or financial exploitation of
22 individuals in any mental health or developmental disabilities
23 facility or agency and shall have authority to take immediate
24 action to prevent any one or more of the following from
25 happening to individuals under its jurisdiction: mental abuse,
26 physical abuse, sexual abuse, neglect, or financial

1 exploitation. The Inspector General shall also investigate
2 allegations of material obstruction of an investigation by an
3 employee. Upon written request of an agency of this State, the
4 Inspector General may assist another agency of the State in
5 investigating reports of the abuse, neglect, or abuse and
6 neglect of persons with mental illness, persons with
7 developmental disabilities, or persons with both. The
8 Inspector General shall conduct annual site visits of each
9 facility and may conduct reviews of facilities and community
10 agencies. To comply with the requirements of subsection (k) of
11 this Section, the Inspector General shall also review all
12 reportable deaths for which there is no allegation of abuse or
13 neglect. Nothing in this Section shall preempt any duties of
14 the Medical Review Board set forth in the Mental Health and
15 Developmental Disabilities Code. The Inspector General shall
16 have no authority to investigate alleged violations of the
17 State Officials and Employees Ethics Act. Allegations of
18 misconduct under the State Officials and Employees Ethics Act
19 shall be referred to the Office of the Governor's Executive
20 Inspector General for investigation.

21 (f) Limitations. The Inspector General shall not conduct
22 an investigation within an agency or facility if that
23 investigation would be redundant to or interfere with an
24 investigation conducted by another State agency. The Inspector
25 General shall have no supervision over, or involvement in, the
26 routine programmatic, licensing, funding, or certification

1 operations of the Department. Nothing in this subsection
2 limits investigations by the Department that may otherwise be
3 required by law or that may be necessary in the Department's
4 capacity as central administrative authority responsible for
5 the operation of the State's mental health and developmental
6 disabilities facilities.

7 (g) Rulemaking authority. The Inspector General shall
8 promulgate rules establishing minimum requirements for
9 reporting allegations as well as for initiating, conducting,
10 and completing investigations based upon the nature of the
11 allegation or allegations. The rules shall clearly establish
12 that if 2 or more State agencies could investigate an
13 allegation, the Inspector General shall not conduct an
14 investigation that would be redundant to, or interfere with,
15 an investigation conducted by another State agency. The rules
16 shall further clarify the method and circumstances under which
17 the Office of Inspector General may interact with the
18 licensing, funding, or certification units of the Department
19 in preventing further occurrences of mental abuse, physical
20 abuse, sexual abuse, neglect, egregious neglect, ~~and~~ financial
21 exploitation, and material obstruction of an investigation.

22 (g-5) Site visits and review authority.

23 (1) Site visits. The Inspector General shall conduct
24 unannounced site visits to each facility at least annually
25 for the purpose of reviewing and making recommendations on
26 systemic issues relative to preventing, reporting,

1 investigating, and responding to all of the following:
2 mental abuse, physical abuse, sexual abuse, neglect,
3 egregious neglect, financial exploitation, or material
4 obstruction of an investigation.

5 (2) Review authority. In response to complaints or
6 information gathered from investigations, the Inspector
7 General shall have and may exercise the authority to
8 initiate reviews of facilities and agencies related to
9 preventing, reporting, investigating, and responding to
10 all of the following: mental abuse, physical abuse, sexual
11 abuse, neglect, egregious neglect, financial exploitation,
12 or material obstruction of an investigation. Upon
13 concluding a review, the Inspector General shall issue a
14 written report setting forth its conclusions and
15 recommendations. The report shall be distributed to the
16 Secretary and to the director of the facility or agency
17 that was the subject of review. Within 45 calendar days,
18 the facility or agency shall submit a written response
19 addressing the Inspector General's conclusions and
20 recommendations and, in a concise and reasoned manner, the
21 actions taken, if applicable, to: (i) protect the
22 individual or individuals; (ii) prevent recurrences; and
23 (iii) eliminate the problems identified. The response
24 shall include the implementation and completion dates of
25 such actions.

26 (h) Training programs. The Inspector General shall (i)

1 establish a comprehensive program to ensure that every person
2 authorized to conduct investigations receives ongoing training
3 relative to investigation techniques, communication skills,
4 and the appropriate means of interacting with persons
5 receiving treatment for mental illness, developmental
6 disability, or both mental illness and developmental
7 disability, and (ii) establish and conduct periodic training
8 programs for facility and agency employees concerning the
9 prevention and reporting of any one or more of the following:
10 mental abuse, physical abuse, sexual abuse, neglect, egregious
11 neglect, ~~or~~ financial exploitation, or material obstruction of
12 an investigation. The Inspector General shall further ensure
13 (i) every person authorized to conduct investigations at
14 community agencies receives ongoing training in Title 59,
15 Parts 115, 116, and 119 of the Illinois Administrative Code,
16 and (ii) every person authorized to conduct investigations
17 shall receive ongoing training in Title 59, Part 50 of the
18 Illinois Administrative Code. Nothing in this Section shall be
19 deemed to prevent the Office of Inspector General from
20 conducting any other training as determined by the Inspector
21 General to be necessary or helpful.

22 (i) Duty to cooperate.

23 (1) The Inspector General shall at all times be
24 granted access to any facility or agency for the purpose
25 of investigating any allegation, conducting unannounced
26 site visits, monitoring compliance with a written

1 response, conducting reviews of facilities and agencies,
2 or completing any other statutorily assigned duty. ~~The~~
3 ~~Inspector General shall conduct unannounced site visits to~~
4 ~~each facility at least annually for the purpose of~~
5 ~~reviewing and making recommendations on systemic issues~~
6 ~~relative to preventing, reporting, investigating, and~~
7 ~~responding to all of the following: mental abuse, physical~~
8 ~~abuse, sexual abuse, neglect, egregious neglect, or~~
9 ~~financial exploitation.~~

10 (2) Any employee who fails to cooperate with an Office
11 of the Inspector General investigation is in violation of
12 this Act. Failure to cooperate with an investigation
13 includes, but is not limited to, any one or more of the
14 following: (i) creating and transmitting a false report to
15 the Office of the Inspector General hotline, (ii)
16 providing false information to an Office of the Inspector
17 General Investigator during an investigation, (iii)
18 colluding with other employees to cover up evidence, (iv)
19 colluding with other employees to provide false
20 information to an Office of the Inspector General
21 investigator, (v) destroying evidence, (vi) withholding
22 evidence, or (vii) otherwise obstructing an Office of the
23 Inspector General investigation. Additionally, any
24 employee who, during an unannounced site visit, ~~or~~ written
25 response compliance check, or review fails to cooperate
26 with requests from the Office of the Inspector General is

1 in violation of this Act.

2 (j) Subpoena powers. The Inspector General shall have the
3 power to subpoena witnesses and compel the production of all
4 documents and physical evidence relating to his or her
5 investigations and reviews and any hearings authorized by this
6 Act. This subpoena power shall not extend to persons or
7 documents of a labor organization or its representatives
8 insofar as the persons are acting in a representative capacity
9 to an employee whose conduct is the subject of an
10 investigation or the documents relate to that representation.
11 Any person who otherwise fails to respond to a subpoena or who
12 knowingly provides false information to the Office of the
13 Inspector General by subpoena during an investigation is
14 guilty of a Class A misdemeanor.

15 (k) Reporting allegations and deaths.

16 (1) Allegations. If an employee witnesses, is told of,
17 or has reason to believe an incident of mental abuse,
18 physical abuse, sexual abuse, neglect, ~~or~~ financial
19 exploitation, or material obstruction of an investigation
20 has occurred, the employee, agency, or facility shall
21 report the allegation by phone to the Office of the
22 Inspector General hotline according to the agency's or
23 facility's procedures, but in no event later than 4 hours
24 after the initial discovery of the incident, allegation,
25 or suspicion of any one or more of the following: mental
26 abuse, physical abuse, sexual abuse, neglect, ~~or~~ financial

1 exploitation, or material obstruction of an investigation.

2 A required reporter as defined in subsection (b) of this
3 Section who knowingly or intentionally fails to comply
4 with these reporting requirements is guilty of a Class A
5 misdemeanor.

6 (2) Deaths. Absent an allegation, a required reporter
7 shall, within 24 hours after initial discovery, report by
8 phone to the Office of the Inspector General hotline each
9 of the following:

10 (i) Any death of an individual occurring within 14
11 calendar days after discharge or transfer of the
12 individual from a residential program or facility.

13 (ii) Any death of an individual occurring within
14 24 hours after deflection from a residential program
15 or facility.

16 (iii) Any other death of an individual occurring
17 at an agency or facility or at any Department-funded
18 site.

19 (3) Retaliation. It is a violation of this Act for any
20 employee or administrator of an agency or facility to take
21 retaliatory action against an employee who acts in good
22 faith in conformance with his or her duties as a required
23 reporter.

24 (1) Reporting to law enforcement. Reporting criminal acts.
25 Within 24 hours after determining that there is credible
26 evidence indicating that a criminal act may have been

1 committed or that special expertise may be required in an
2 investigation, the Inspector General shall notify the Illinois
3 State Police or other appropriate law enforcement authority,
4 or ensure that such notification is made. The Illinois State
5 Police shall investigate any report from a State-operated
6 facility indicating a possible murder, sexual assault, or
7 other felony by an employee. All investigations conducted by
8 the Inspector General shall be conducted in a manner designed
9 to ensure the preservation of evidence for possible use in a
10 criminal prosecution.

11 (m) Investigative reports. Upon completion of an
12 investigation, the Office of Inspector General shall issue an
13 investigative report identifying whether the allegations are
14 substantiated, unsubstantiated, or unfounded. Within 10
15 business days after the transmittal of a completed
16 investigative report substantiating an allegation, finding an
17 allegation is unsubstantiated, or if a recommendation is made,
18 the Inspector General shall provide the investigative report
19 on the case to the Secretary and to the director of the
20 facility or agency where any one or more of the following
21 occurred: mental abuse, physical abuse, sexual abuse, neglect,
22 egregious neglect, financial exploitation, or material
23 obstruction of an investigation. The director of the facility
24 or agency shall be responsible for maintaining the
25 confidentiality of the investigative report consistent with
26 State and federal law. In a substantiated case, the

1 investigative report shall include any mitigating or
2 aggravating circumstances that were identified during the
3 investigation. If the case involves substantiated neglect, the
4 investigative report shall also state whether egregious
5 neglect was found. An investigative report may also set forth
6 recommendations. All investigative reports prepared by the
7 Office of the Inspector General shall be considered
8 confidential and shall not be released except as provided by
9 the law of this State or as required under applicable federal
10 law. Unsubstantiated and unfounded reports shall not be
11 disclosed except as allowed under Section 6 of the Abused and
12 Neglected Long Term Care Facility Residents Reporting Act. Raw
13 data used to compile the investigative report shall not be
14 subject to release unless required by law or a court order.
15 "Raw data used to compile the investigative report" includes,
16 but is not limited to, any one or more of the following: the
17 initial complaint, witness statements, photographs,
18 investigator's notes, police reports, or incident reports. If
19 the allegations are substantiated, the victim, the victim's
20 guardian, and the accused shall be provided with a redacted
21 copy of the investigative report. Death reports where there
22 was no allegation of abuse or neglect shall only be released
23 pursuant to applicable State or federal law or a valid court
24 order. Unredacted investigative reports, as well as raw data,
25 may be shared with a local law enforcement entity, a State's
26 Attorney's office, or a county coroner's office upon written

1 request.

2 (n) Written responses, clarification requests, and
3 reconsideration requests.

4 (1) Written responses. Within 30 calendar days from
5 receipt of a substantiated investigative report or an
6 investigative report which contains recommendations,
7 absent a reconsideration request, the facility or agency
8 shall file a written response that addresses, in a concise
9 and reasoned manner, the actions taken to: (i) protect the
10 individual; (ii) prevent recurrences; and (iii) eliminate
11 the problems identified. The response shall include the
12 implementation and completion dates of such actions. If
13 the written response is not filed within the allotted 30
14 calendar day period, the Secretary, or the Secretary's
15 designee, shall determine the appropriate corrective
16 action to be taken.

17 (2) Requests for clarification. The facility, agency,
18 victim or guardian, or the subject employee may request
19 that the Office of Inspector General clarify the finding
20 or findings for which clarification is sought.

21 (3) Requests for reconsideration. The facility,
22 agency, victim or guardian, or the subject employee may
23 request that the Office of the Inspector General
24 reconsider the finding or findings or the recommendations.
25 A request for reconsideration shall be subject to a
26 multi-layer review and shall include at least one reviewer

1 who did not participate in the investigation or approval
2 of the original investigative report. After the
3 multi-layer review process has been completed, the
4 Inspector General shall make the final determination on
5 the reconsideration request. The investigation shall be
6 reopened if the reconsideration determination finds that
7 additional information is needed to complete the
8 investigative record.

9 (o) Disclosure of the finding by the Inspector General.
10 The Inspector General shall disclose the finding of an
11 investigation to the following persons: (i) the Governor, (ii)
12 the Secretary, (iii) the director of the facility or agency,
13 (iv) the alleged victims and their guardians, (v) the
14 complainant, and (vi) the accused. This information shall
15 include whether the allegations were deemed substantiated,
16 unsubstantiated, or unfounded.

17 (p) Secretary review. Upon review of the Inspector
18 General's investigative report and any agency's or facility's
19 written response, the Secretary, or the Secretary's designee,
20 shall accept or reject the written response and notify the
21 Inspector General of that determination. The Secretary, or the
22 Secretary's designee, may further direct that other
23 administrative action be taken, including, but not limited to,
24 any one or more of the following: (i) additional site visits,
25 (ii) training, (iii) provision of technical assistance
26 relative to administrative needs, licensure, or certification,

1 or (iv) the imposition of appropriate sanctions.

2 (q) Action by facility or agency. Within 30 days of the
3 date the Secretary, or the Secretary's designee, approves the
4 written response or directs that further administrative action
5 be taken, the facility or agency shall provide an
6 implementation report to the Inspector General that provides
7 the status of the action taken. The facility or agency shall be
8 allowed an additional 30 days to send notice of completion of
9 the action or to send an updated implementation report. If the
10 action has not been completed within the additional 30-day
11 period, the facility or agency shall send updated
12 implementation reports every 60 days until completion. The
13 Inspector General shall conduct a review of any implementation
14 plan that takes more than 120 days after approval to complete,
15 and shall monitor compliance through a random review of
16 approved written responses, which may include, but are not
17 limited to: (i) site visits, (ii) telephone contact, and (iii)
18 requests for additional documentation evidencing compliance.

19 (r) Sanctions. Sanctions, if imposed by the Secretary
20 under Subdivision (p)(iv) of this Section, shall be designed
21 to prevent further acts of mental abuse, physical abuse,
22 sexual abuse, neglect, egregious neglect, or financial
23 exploitation or some combination of one or more of those acts
24 at a facility or agency, and may include any one or more of the
25 following:

26 (1) Appointment of on-site monitors.

1 (2) Transfer or relocation of an individual or
2 individuals.

3 (3) Closure of units.

4 (4) Termination of any one or more of the following:

5 (i) Department licensing, (ii) funding, or (iii)
6 certification.

7 The Inspector General may seek the assistance of the
8 Illinois Attorney General or the office of any State's
9 Attorney in implementing sanctions.

10 (s) Health Care Worker Registry.

11 (1) Reporting to the Registry. The Inspector General
12 shall report to the Department of Public Health's Health
13 Care Worker Registry, a public registry, the identity and
14 finding of each employee of a facility or agency against
15 whom there is a final investigative report prepared by the
16 Office of the Inspector General containing a substantiated
17 allegation of physical or sexual abuse, financial
18 exploitation, egregious neglect of an individual, or
19 material obstruction of an investigation, unless the
20 Inspector General requests a stipulated disposition of the
21 investigative report that does not include the reporting
22 of the employee's name to the Health Care Worker Registry
23 and the Secretary of Human Services agrees with the
24 requested stipulated disposition.

25 (2) Notice to employee. Prior to reporting the name of
26 an employee, the employee shall be notified of the

1 Department's obligation to report and shall be granted an
2 opportunity to request an administrative hearing, the sole
3 purpose of which is to determine if the substantiated
4 finding warrants reporting to the Registry. Notice to the
5 employee shall contain a clear and concise statement of
6 the grounds on which the report to the Registry is based,
7 offer the employee an opportunity for a hearing, and
8 identify the process for requesting such a hearing. Notice
9 is sufficient if provided by certified mail to the
10 employee's last known address. If the employee fails to
11 request a hearing within 30 days from the date of the
12 notice, the Inspector General shall report the name of the
13 employee to the Registry. Nothing in this subdivision
14 (s) (2) shall diminish or impair the rights of a person who
15 is a member of a collective bargaining unit under the
16 Illinois Public Labor Relations Act or under any other
17 federal labor statute.

18 (3) Registry hearings. If the employee requests an
19 administrative hearing, the employee shall be granted an
20 opportunity to appear before an administrative law judge
21 to present reasons why the employee's name should not be
22 reported to the Registry. The Department shall bear the
23 burden of presenting evidence that establishes, by a
24 preponderance of the evidence, that the substantiated
25 finding warrants reporting to the Registry. After
26 considering all the evidence presented, the administrative

1 law judge shall make a recommendation to the Secretary as
2 to whether the substantiated finding warrants reporting
3 the name of the employee to the Registry. The Secretary
4 shall render the final decision. The Department and the
5 employee shall have the right to request that the
6 administrative law judge consider a stipulated disposition
7 of these proceedings.

8 (4) Testimony at Registry hearings. A person who makes
9 a report or who investigates a report under this Act shall
10 testify fully in any judicial proceeding resulting from
11 such a report, as to any evidence of physical abuse,
12 sexual abuse, egregious neglect, financial exploitation,
13 or material obstruction of an investigation ~~abuse or~~
14 ~~neglect,~~ or the cause thereof. No evidence shall be
15 excluded by reason of any common law or statutory
16 privilege relating to communications between the alleged
17 perpetrator of abuse or neglect, or the individual alleged
18 as the victim in the report, and the person making or
19 investigating the report. Testimony at hearings is exempt
20 from the confidentiality requirements of subsection (f) of
21 Section 10 of the Mental Health and Developmental
22 Disabilities Confidentiality Act.

23 (5) Employee's rights to collateral action. No
24 reporting to the Registry shall occur and no hearing shall
25 be set or proceed if an employee notifies the Inspector
26 General in writing, including any supporting

1 documentation, that he or she is formally contesting an
2 adverse employment action resulting from a substantiated
3 finding by complaint filed with the Illinois Civil Service
4 Commission, or which otherwise seeks to enforce the
5 employee's rights pursuant to any applicable collective
6 bargaining agreement. If an action taken by an employer
7 against an employee as a result of a finding of physical
8 abuse, sexual abuse, ~~or~~ egregious neglect, financial
9 exploitation, or material obstruction of an investigation
10 is overturned through an action filed with the Illinois
11 Civil Service Commission or under any applicable
12 collective bargaining agreement and if that employee's
13 name has already been sent to the Registry, the employee's
14 name shall be removed from the Registry.

15 (6) Removal from Registry. At any time after the
16 report to the Registry, but no more than once in any
17 12-month period, an employee may petition the Department
18 in writing to remove his or her name from the Registry.
19 Upon receiving notice of such request, the Inspector
20 General shall conduct an investigation into the petition.
21 Upon receipt of such request, an administrative hearing
22 will be set by the Department. At the hearing, the
23 employee shall bear the burden of presenting evidence that
24 establishes, by a preponderance of the evidence, that
25 removal of the name from the Registry is in the public
26 interest. The parties may jointly request that the

1 administrative law judge consider a stipulated disposition
2 of these proceedings.

3 (t) Review of Administrative Decisions. The Department
4 shall preserve a record of all proceedings at any formal
5 hearing conducted by the Department involving Health Care
6 Worker Registry hearings. Final administrative decisions of
7 the Department are subject to judicial review pursuant to
8 provisions of the Administrative Review Law.

9 (u) Quality Care Board. There is created, within the
10 Office of the Inspector General, a Quality Care Board to be
11 composed of 7 members appointed by the Governor with the
12 advice and consent of the Senate. One of the members shall be
13 designated as chairman by the Governor. Of the initial
14 appointments made by the Governor, 4 Board members shall each
15 be appointed for a term of 4 years and 3 members shall each be
16 appointed for a term of 2 years. Upon the expiration of each
17 member's term, a successor shall be appointed for a term of 4
18 years. In the case of a vacancy in the office of any member,
19 the Governor shall appoint a successor for the remainder of
20 the unexpired term.

21 Members appointed by the Governor shall be qualified by
22 professional knowledge or experience in the area of law,
23 investigatory techniques, or in the area of care of the
24 mentally ill or care of persons with developmental
25 disabilities. Two members appointed by the Governor shall be
26 persons with a disability or parents of persons with a

1 disability. Members shall serve without compensation, but
2 shall be reimbursed for expenses incurred in connection with
3 the performance of their duties as members.

4 The Board shall meet quarterly, and may hold other
5 meetings on the call of the chairman. Four members shall
6 constitute a quorum allowing the Board to conduct its
7 business. The Board may adopt rules and regulations it deems
8 necessary to govern its own procedures.

9 The Board shall monitor and oversee the operations,
10 policies, and procedures of the Inspector General to ensure
11 the prompt and thorough investigation of allegations of
12 neglect and abuse. In fulfilling these responsibilities, the
13 Board may do the following:

14 (1) Provide independent, expert consultation to the
15 Inspector General on policies and protocols for
16 investigations of alleged abuse, neglect, or both abuse
17 and neglect.

18 (2) Review existing regulations relating to the
19 operation of facilities.

20 (3) Advise the Inspector General as to the content of
21 training activities authorized under this Section.

22 (4) Recommend policies concerning methods for
23 improving the intergovernmental relationships between the
24 Office of the Inspector General and other State or federal
25 offices.

26 (v) Annual report. The Inspector General shall provide to

1 the General Assembly and the Governor, no later than January 1
2 of each year, a summary of reports and investigations made
3 under this Act for the prior fiscal year with respect to
4 individuals receiving mental health or developmental
5 disabilities services. The report shall detail the imposition
6 of sanctions, if any, and the final disposition of any
7 corrective or administrative action directed by the Secretary.
8 The summaries shall not contain any confidential or
9 identifying information of any individual, but shall include
10 objective data identifying any trends in the number of
11 reported allegations, the timeliness of the Office of the
12 Inspector General's investigations, and their disposition, for
13 each facility and Department-wide, for the most recent 3-year
14 time period. The report shall also identify, by facility, the
15 staff-to-patient ratios taking account of direct care staff
16 only. The report shall also include detailed recommended
17 administrative actions and matters for consideration by the
18 General Assembly.

19 (w) Program audit. The Auditor General shall conduct a
20 program audit of the Office of the Inspector General on an
21 as-needed basis, as determined by the Auditor General. The
22 audit shall specifically include the Inspector General's
23 compliance with the Act and effectiveness in investigating
24 reports of allegations occurring in any facility or agency.
25 The Auditor General shall conduct the program audit according
26 to the provisions of the Illinois State Auditing Act and shall

1 report its findings to the General Assembly no later than
2 January 1 following the audit period.

3 (x) Nothing in this Section shall be construed to mean
4 that an individual is a victim of abuse or neglect because of
5 health care services appropriately provided or not provided by
6 health care professionals.

7 (y) Nothing in this Section shall require a facility,
8 including its employees, agents, medical staff members, and
9 health care professionals, to provide a service to an
10 individual in contravention of that individual's stated or
11 implied objection to the provision of that service on the
12 ground that that service conflicts with the individual's
13 religious beliefs or practices, nor shall the failure to
14 provide a service to an individual be considered abuse under
15 this Section if the individual has objected to the provision
16 of that service based on his or her religious beliefs or
17 practices.

18 (Source: P.A. 102-538, eff. 8-20-21; 102-883, eff. 5-13-22;
19 102-1071, eff. 6-10-22; 103-76, eff. 6-9-23; 103-154, eff.
20 6-30-23.)