



Sen. Laura Fine

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1 AMENDMENT TO SENATE BILL 857

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 857 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Human Services Act is  
5 amended 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

1 within mental health facilities, developmental disabilities  
2 facilities, and community agencies operated, licensed, funded,  
3 or certified by the Department of Human Services, but not  
4 licensed or certified by any other State agency.

5 (b) Definitions. The following definitions apply to this  
6 Section:

7 "Agency" or "community agency" means (i) a community  
8 agency licensed, funded, or certified by the Department, but  
9 not licensed or certified by any other human services agency  
10 of the State, to provide mental health service or  
11 developmental disabilities service, or (ii) a program  
12 licensed, funded, or certified by the Department, but not  
13 licensed or certified by any other human services agency of  
14 the State, to provide mental health service or developmental  
15 disabilities service.

16 "Aggravating circumstance" means a factor that is  
17 attendant to a finding and that tends to compound or increase  
18 the culpability of the accused.

19 "Allegation" means an assertion, complaint, suspicion, or  
20 incident involving any of the following conduct by an  
21 employee, facility, or agency against an individual or  
22 individuals: mental abuse, physical abuse, sexual abuse,  
23 neglect, ~~or~~ financial exploitation, or material obstruction of  
24 an investigation.

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

26 "Deflection" means a situation in which an individual is

1 presented for admission to a facility or agency, and the  
2 facility staff or agency staff do not admit the individual.  
3 "Deflection" includes triage, redirection, and denial of  
4 admission.

5 "Department" means the Department of Human Services.

6 "Developmental disability" means "developmental  
7 disability" as defined in the Mental Health and Developmental  
8 Disabilities Code.

9 "Egregious neglect" means a finding of neglect as  
10 determined by the Inspector General that (i) represents a  
11 gross failure to adequately provide for, or a callused  
12 indifference to, the health, safety, or medical needs of an  
13 individual and (ii) results in an individual's death or other  
14 serious deterioration of an individual's physical condition or  
15 mental condition.

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

26 "Facility" or "State-operated facility" means a mental

1 health facility or developmental disabilities facility  
2 operated by the Department.

3 "Financial exploitation" means taking unjust advantage of  
4 an individual's assets, property, or financial resources  
5 through deception, intimidation, or conversion for the  
6 employee's, facility's, or agency's own advantage or benefit.

7 "Finding" means the Office of Inspector General's  
8 determination regarding whether an allegation is  
9 substantiated, unsubstantiated, or unfounded.

10 "Health Care Worker Registry" or "Registry" means the  
11 Health Care Worker Registry under the Health Care Worker  
12 Background Check Act.

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

16 "Material obstruction of an investigation" means the  
17 purposeful interference with an investigation of physical  
18 abuse, sexual abuse, mental abuse, neglect, or financial  
19 exploitation and includes, but is not limited to, the  
20 withholding or altering of documentation or recorded evidence;  
21 influencing, threatening, or impeding witness testimony;  
22 presenting untruthful information during an interview; failing  
23 to cooperate with an investigation conducted by the Office of  
24 the Inspector General. If an employee, following a criminal  
25 investigation of physical abuse, sexual abuse, mental abuse,  
26 neglect, or financial exploitation, is convicted of an offense

1 that is factually predicated on the employee presenting  
2 untruthful information during the course of the investigation,  
3 that offense constitutes obstruction of an investigation.  
4 Obstruction of an investigation does not include: an  
5 employee's lawful exercising of his or her constitutional  
6 right against self-incrimination, an employee invoking his or  
7 her lawful rights to union representation as provided by a  
8 collective bargaining agreement or the Illinois Public Labor  
9 Relations Act, or a union representative's lawful activities  
10 providing representation under a collective bargaining  
11 agreement or the Illinois Public Labor Relations Act.  
12 Obstruction of an investigation is considered material when it  
13 could significantly impair an investigator's ability to gather  
14 all relevant facts. An employee shall not be placed on the  
15 Health Care Worker Registry for presenting untruthful  
16 information during an interview conducted by the Office of the  
17 Inspector General, unless, prior to the interview, the  
18 employee was provided with any previous signed statements he  
19 or she made during the course of the investigation.

20 "Mental abuse" means the use of demeaning, intimidating,  
21 or threatening words, signs, gestures, or other actions by an  
22 employee about an individual and in the presence of an  
23 individual or individuals that results in emotional distress  
24 or maladaptive behavior, or could have resulted in emotional  
25 distress or maladaptive behavior, for any individual present.

26 "Mental illness" means "mental illness" as defined in the

1 Mental Health and Developmental Disabilities Code.

2 "Mentally ill" means having a mental illness.

3 "Mitigating circumstance" means a condition that (i) is  
4 attendant to a finding, (ii) does not excuse or justify the  
5 conduct in question, but (iii) may be considered in evaluating  
6 the severity of the conduct, the culpability of the accused,  
7 or both the severity of the conduct and the culpability of the  
8 accused.

9 "Neglect" means an employee's, agency's, or facility's  
10 failure to provide adequate medical care, personal care, or  
11 maintenance and that, as a consequence, (i) causes an  
12 individual pain, injury, or emotional distress, (ii) results  
13 in either an individual's maladaptive behavior or the  
14 deterioration of an individual's physical condition or mental  
15 condition, or (iii) places the individual's health or safety  
16 at substantial risk.

17 "Person with a developmental disability" means a person  
18 having a developmental disability.

19 "Physical abuse" means an employee's non-accidental and  
20 inappropriate contact with an individual that causes bodily  
21 harm. "Physical abuse" includes actions that cause bodily harm  
22 as a result of an employee directing an individual or person to  
23 physically abuse another individual.

24 "Presenting untruthful information" means making a false  
25 statement, material to an investigation of physical abuse,  
26 sexual abuse, mental abuse, neglect, or financial

1 exploitation, knowing the statement is false.

2 "Recommendation" means an admonition, separate from a  
3 finding, that requires action by the facility, agency, or  
4 Department to correct a systemic issue, problem, or deficiency  
5 identified during an investigation. "Recommendation" can also  
6 mean an admonition to correct a systemic issue, problem or  
7 deficiency during a review.

8 "Required reporter" means any employee who suspects,  
9 witnesses, or is informed of an allegation of any one or more  
10 of the following: mental abuse, physical abuse, sexual abuse,  
11 neglect, or financial exploitation.

12 "Secretary" means the Chief Administrative Officer of the  
13 Department.

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

1 "Sexually explicit images" includes, but is not limited  
2 to, any material which depicts nudity, sexual conduct, or  
3 sado-masochistic abuse, or which contains explicit and  
4 detailed verbal descriptions or narrative accounts of sexual  
5 excitement, sexual conduct, or sado-masochistic abuse.

6 "Substantiated" means there is a preponderance of the  
7 evidence to support the allegation.

8 "Unfounded" means there is no credible evidence to support  
9 the allegation.

10 "Unsubstantiated" means there is credible evidence, but  
11 less than a preponderance of evidence to support the  
12 allegation.

13 (c) Appointment. The Governor shall appoint, and the  
14 Senate shall confirm, an Inspector General. The Inspector  
15 General shall be appointed for a term of 4 years and shall  
16 function within the Department of Human Services and report to  
17 the Secretary and the Governor.

18 (d) Operation and appropriation. The Inspector General  
19 shall function independently within the Department with  
20 respect to the operations of the Office, including the  
21 performance of investigations and issuance of findings and  
22 recommendations and the performance of site visits and reviews  
23 of facilities and community agencies. The appropriation for  
24 the Office of Inspector General shall be separate from the  
25 overall appropriation for the Department.

26 (e) Powers and duties. The Inspector General shall



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

1 Inspector General for investigation.

2 (f) Limitations. The Inspector General shall not conduct  
3 an investigation within an agency or facility if that  
4 investigation would be redundant to or interfere with an  
5 investigation conducted by another State agency. The Inspector  
6 General shall have no supervision over, or involvement in, the  
7 routine programmatic, licensing, funding, or certification  
8 operations of the Department. Nothing in this subsection  
9 limits investigations by the Department that may otherwise be  
10 required by law or that may be necessary in the Department's  
11 capacity as central administrative authority responsible for  
12 the operation of the State's mental health and developmental  
13 disabilities facilities.

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

1 abuse, sexual abuse, neglect, egregious neglect, ~~and~~ financial  
2 exploitation, and material obstruction of an investigation.

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

4 (1) Site visits. The Inspector General shall conduct  
5 unannounced site visits to each facility at least annually  
6 for the purpose of reviewing and making recommendations on  
7 systemic issues relative to preventing, reporting,  
8 investigating, and responding to all of the following:  
9 mental abuse, physical abuse, sexual abuse, neglect,  
10 egregious neglect, financial exploitation, or material  
11 obstruction of an investigation.

12 (2) Review authority. In response to complaints or  
13 information gathered from investigations, the Inspector  
14 General shall have and may exercise the authority to  
15 initiate reviews of facilities and agencies related to  
16 preventing, reporting, investigating, and responding to  
17 all of the following: mental abuse, physical abuse, sexual  
18 abuse, neglect, egregious neglect, financial exploitation,  
19 or material obstruction of an investigation. Upon  
20 concluding a review, the Inspector General shall issue a  
21 written report setting forth its conclusions and  
22 recommendations. The report shall be distributed to the  
23 Secretary and to the director of the facility or agency  
24 that was the subject of review. Within 45 calendar days,  
25 the facility or agency shall submit a written response  
26 addressing the Inspector General's conclusions and

1       recommendations and, in a concise and reasoned manner, the  
2       actions taken, if applicable, to: (i) protect the  
3       individual or individuals; (ii) prevent recurrences; and  
4       (iii) eliminate the problems identified. The response  
5       shall include the implementation and completion dates of  
6       such actions.

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

1 conducting any other training as determined by the Inspector  
2 General to be necessary or helpful.

3 (i) Duty to cooperate.

4 (1) The Inspector General shall at all times be  
5 granted access to any facility or agency for the purpose  
6 of investigating any allegation, conducting unannounced  
7 site visits, monitoring compliance with a written  
8 response, conducting reviews of facilities and agencies,  
9 or completing any other statutorily assigned duty. ~~The  
10 Inspector General shall conduct unannounced site visits to  
11 each facility at least annually for the purpose of  
12 reviewing and making recommendations on systemic issues  
13 relative to preventing, reporting, investigating, and  
14 responding to all of the following: mental abuse, physical  
15 abuse, sexual abuse, neglect, egregious neglect, or  
16 financial exploitation.~~

17 (2) Any employee who fails to cooperate with an Office  
18 of the Inspector General investigation is in violation of  
19 this Act. Failure to cooperate with an investigation  
20 includes, but is not limited to, any one or more of the  
21 following: (i) creating and transmitting a false report to  
22 the Office of the Inspector General hotline, (ii)  
23 providing false information to an Office of the Inspector  
24 General Investigator during an investigation, (iii)  
25 colluding with other employees to cover up evidence, (iv)  
26 colluding with other employees to provide false

1 information to an Office of the Inspector General  
2 investigator, (v) destroying evidence, (vi) withholding  
3 evidence, or (vii) otherwise obstructing an Office of the  
4 Inspector General investigation. Additionally, any  
5 employee who, during an unannounced site visit, ~~or~~ written  
6 response compliance check, or review fails to cooperate  
7 with requests from the Office of the Inspector General is  
8 in violation of this Act.

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

22 (k) Reporting allegations and deaths.

23 (1) Allegations. If an employee witnesses, is told of,  
24 or has reason to believe an incident of mental abuse,  
25 physical abuse, sexual abuse, neglect, ~~or~~ financial  
26 exploitation, or material obstruction of an investigation

1 has occurred, the employee, agency, or facility shall  
2 report the allegation by phone to the Office of the  
3 Inspector General hotline according to the agency's or  
4 facility's procedures, but in no event later than 4 hours  
5 after the initial discovery of the incident, allegation,  
6 or suspicion of any one or more of the following: mental  
7 abuse, physical abuse, sexual abuse, neglect, ~~or~~ financial  
8 exploitation, or material obstruction of an investigation.

9 A required reporter as defined in subsection (b) of this  
10 Section who knowingly or intentionally fails to comply  
11 with these reporting requirements is guilty of a Class A  
12 misdemeanor.

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

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

20 (ii) Any death of an individual occurring within  
21 24 hours after deflection from a residential program  
22 or facility.

23 (iii) Any other death of an individual occurring  
24 at an agency or facility or at any Department-funded  
25 site.

26 (3) Retaliation. It is a violation of this Act for any

1 employee or administrator of an agency or facility to take  
2 retaliatory action against an employee who acts in good  
3 faith in conformance with his or her duties as a required  
4 reporter.

5 (1) Reporting to law enforcement. Reporting criminal acts.  
6 Within 24 hours after determining that there is credible  
7 evidence indicating that a criminal act may have been  
8 committed or that special expertise may be required in an  
9 investigation, the Inspector General shall notify the Illinois  
10 State Police or other appropriate law enforcement authority,  
11 or ensure that such notification is made. The Illinois State  
12 Police shall investigate any report from a State-operated  
13 facility indicating a possible murder, sexual assault, or  
14 other felony by an employee. All investigations conducted by  
15 the Inspector General shall be conducted in a manner designed  
16 to ensure the preservation of evidence for possible use in a  
17 criminal prosecution.

18 (m) Investigative reports. Upon completion of an  
19 investigation, the Office of Inspector General shall issue an  
20 investigative report identifying whether the allegations are  
21 substantiated, unsubstantiated, or unfounded. Within 10  
22 business days after the transmittal of a completed  
23 investigative report substantiating an allegation, finding an  
24 allegation is unsubstantiated, or if a recommendation is made,  
25 the Inspector General shall provide the investigative report  
26 on the case to the Secretary and to the director of the



1 facility or agency where any one or more of the following  
2 occurred: mental abuse, physical abuse, sexual abuse, neglect,  
3 egregious neglect, financial exploitation, or material  
4 obstruction of an investigation. The director of the facility  
5 or agency shall be responsible for maintaining the  
6 confidentiality of the investigative report consistent with  
7 State and federal law. In a substantiated case, the  
8 investigative report shall include any mitigating or  
9 aggravating circumstances that were identified during the  
10 investigation. If the case involves substantiated neglect, the  
11 investigative report shall also state whether egregious  
12 neglect was found. An investigative report may also set forth  
13 recommendations. All investigative reports prepared by the  
14 Office of the Inspector General shall be considered  
15 confidential and shall not be released except as provided by  
16 the law of this State or as required under applicable federal  
17 law. Unsubstantiated and unfounded reports shall not be  
18 disclosed except as allowed under Section 6 of the Abused and  
19 Neglected Long Term Care Facility Residents Reporting Act. Raw  
20 data used to compile the investigative report shall not be  
21 subject to release unless required by law or a court order.  
22 "Raw data used to compile the investigative report" includes,  
23 but is not limited to, any one or more of the following: the  
24 initial complaint, witness statements, photographs,  
25 investigator's notes, police reports, or incident reports. If  
26 the allegations are substantiated, the victim, the victim's

1 guardian, and the accused shall be provided with a redacted  
2 copy of the investigative report. Death reports where there  
3 was no allegation of abuse or neglect shall only be released  
4 pursuant to applicable State or federal law or a valid court  
5 order. Unredacted investigative reports, as well as raw data,  
6 may be shared with a local law enforcement entity, a State's  
7 Attorney's office, or a county coroner's office upon written  
8 request.

9 (n) Written responses, clarification requests, and  
10 reconsideration requests.

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

24 (2) Requests for clarification. The facility, agency,  
25 victim or guardian, or the subject employee may request  
26 that the Office of Inspector General clarify the finding

1 or findings for which clarification is sought.

2 (3) Requests for reconsideration. The facility,  
3 agency, victim or guardian, or the subject employee may  
4 request that the Office of the Inspector General  
5 reconsider the finding or findings or the recommendations.  
6 A request for reconsideration shall be subject to a  
7 multi-layer review and shall include at least one reviewer  
8 who did not participate in the investigation or approval  
9 of the original investigative report. After the  
10 multi-layer review process has been completed, the  
11 Inspector General shall make the final determination on  
12 the reconsideration request. The investigation shall be  
13 reopened if the reconsideration determination finds that  
14 additional information is needed to complete the  
15 investigative record.

16 (o) Disclosure of the finding by the Inspector General.  
17 The Inspector General shall disclose the finding of an  
18 investigation to the following persons: (i) the Governor, (ii)  
19 the Secretary, (iii) the director of the facility or agency,  
20 (iv) the alleged victims and their guardians, (v) the  
21 complainant, and (vi) the accused. This information shall  
22 include whether the allegations were deemed substantiated,  
23 unsubstantiated, or unfounded.

24 (p) Secretary review. Upon review of the Inspector  
25 General's investigative report and any agency's or facility's  
26 written response, the Secretary, or the Secretary's designee,

1 shall accept or reject the written response and notify the  
2 Inspector General of that determination. The Secretary, or the  
3 Secretary's designee, may further direct that other  
4 administrative action be taken, including, but not limited to,  
5 any one or more of the following: (i) additional site visits,  
6 (ii) training, (iii) provision of technical assistance  
7 relative to administrative needs, licensure, or certification,  
8 or (iv) the imposition of appropriate sanctions.

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

26 (r) Sanctions. Sanctions, if imposed by the Secretary

1 under Subdivision (p)(iv) of this Section, shall be designed  
2 to prevent further acts of mental abuse, physical abuse,  
3 sexual abuse, neglect, egregious neglect, or financial  
4 exploitation or some combination of one or more of those acts  
5 at a facility or agency, and may include any one or more of the  
6 following:

7 (1) Appointment of on-site monitors.

8 (2) Transfer or relocation of an individual or  
9 individuals.

10 (3) Closure of units.

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

12 (i) Department licensing, (ii) funding, or (iii)  
13 certification.

14 The Inspector General may seek the assistance of the  
15 Illinois Attorney General or the office of any State's  
16 Attorney in implementing sanctions.

17 (s) Health Care Worker Registry.

18 (1) Reporting to the Registry. The Inspector General  
19 shall report to the Department of Public Health's Health  
20 Care Worker Registry, a public registry, the identity and  
21 finding of each employee of a facility or agency against  
22 whom there is a final investigative report prepared by the  
23 Office of the Inspector General containing a substantiated  
24 allegation of physical or sexual abuse, financial  
25 exploitation, egregious neglect of an individual, or  
26 material obstruction of an investigation, unless the

1 Inspector General requests a stipulated disposition of the  
2 investigative report that does not include the reporting  
3 of the employee's name to the Health Care Worker Registry  
4 and the Secretary of Human Services agrees with the  
5 requested stipulated disposition.

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

25 (3) Registry hearings. If the employee requests an  
26 administrative hearing, the employee shall be granted an

1 opportunity to appear before an administrative law judge  
2 to present reasons why the employee's name should not be  
3 reported to the Registry. The Department shall bear the  
4 burden of presenting evidence that establishes, by a  
5 preponderance of the evidence, that the substantiated  
6 finding warrants reporting to the Registry. After  
7 considering all the evidence presented, the administrative  
8 law judge shall make a recommendation to the Secretary as  
9 to whether the substantiated finding warrants reporting  
10 the name of the employee to the Registry. The Secretary  
11 shall render the final decision. The Department and the  
12 employee shall have the right to request that the  
13 administrative law judge consider a stipulated disposition  
14 of these proceedings.

15 (4) Testimony at Registry hearings. A person who makes  
16 a report or who investigates a report under this Act shall  
17 testify fully in any judicial proceeding resulting from  
18 such a report, as to any evidence of physical abuse,  
19 sexual abuse, egregious neglect, financial exploitation,  
20 or material obstruction of an investigation ~~abuse or~~  
21 ~~neglect,~~ or the cause thereof. No evidence shall be  
22 excluded by reason of any common law or statutory  
23 privilege relating to communications between the alleged  
24 perpetrator of abuse or neglect, or the individual alleged  
25 as the victim in the report, and the person making or  
26 investigating the report. Testimony at hearings is exempt

1 from the confidentiality requirements of subsection (f) of  
2 Section 10 of the Mental Health and Developmental  
3 Disabilities Confidentiality Act.

4 (5) Employee's rights to collateral action. No  
5 reporting to the Registry shall occur and no hearing shall  
6 be set or proceed if an employee notifies the Inspector  
7 General in writing, including any supporting  
8 documentation, that he or she is formally contesting an  
9 adverse employment action resulting from a substantiated  
10 finding by complaint filed with the Illinois Civil Service  
11 Commission, or which otherwise seeks to enforce the  
12 employee's rights pursuant to any applicable collective  
13 bargaining agreement. If an action taken by an employer  
14 against an employee as a result of a finding of physical  
15 abuse, sexual abuse, ~~or~~ egregious neglect, financial  
16 exploitation, or material obstruction of an investigation  
17 is overturned through an action filed with the Illinois  
18 Civil Service Commission or under any applicable  
19 collective bargaining agreement and if that employee's  
20 name has already been sent to the Registry, the employee's  
21 name shall be removed from the Registry.

22 (6) Removal from Registry. At any time after the  
23 report to the Registry, but no more than once in any  
24 12-month period, an employee may petition the Department  
25 in writing to remove his or her name from the Registry.  
26 Upon receiving notice of such request, the Inspector



1 General shall conduct an investigation into the petition.  
2 Upon receipt of such request, an administrative hearing  
3 will be set by the Department. At the hearing, the  
4 employee shall bear the burden of presenting evidence that  
5 establishes, by a preponderance of the evidence, that  
6 removal of the name from the Registry is in the public  
7 interest. The parties may jointly request that the  
8 administrative law judge consider a stipulated disposition  
9 of these proceedings.

10 (t) Review of Administrative Decisions. The Department  
11 shall preserve a record of all proceedings at any formal  
12 hearing conducted by the Department involving Health Care  
13 Worker Registry hearings. Final administrative decisions of  
14 the Department are subject to judicial review pursuant to  
15 provisions of the Administrative Review Law.

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

1 the unexpired term.

2 Members appointed by the Governor shall be qualified by  
3 professional knowledge or experience in the area of law,  
4 investigatory techniques, or in the area of care of the  
5 mentally ill or care of persons with developmental  
6 disabilities. Two members appointed by the Governor shall be  
7 persons with a disability or parents of persons with a  
8 disability. Members shall serve without compensation, but  
9 shall be reimbursed for expenses incurred in connection with  
10 the performance of their duties as members.

11 The Board shall meet quarterly, and may hold other  
12 meetings on the call of the chairman. Four members shall  
13 constitute a quorum allowing the Board to conduct its  
14 business. The Board may adopt rules and regulations it deems  
15 necessary to govern its own procedures.

16 The Board shall monitor and oversee the operations,  
17 policies, and procedures of the Inspector General to ensure  
18 the prompt and thorough investigation of allegations of  
19 neglect and abuse. In fulfilling these responsibilities, the  
20 Board may do the following:

21 (1) Provide independent, expert consultation to the  
22 Inspector General on policies and protocols for  
23 investigations of alleged abuse, neglect, or both abuse  
24 and neglect.

25 (2) Review existing regulations relating to the  
26 operation of facilities.

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

3           (4) Recommend policies concerning methods for  
4 improving the intergovernmental relationships between the  
5 Office of the Inspector General and other State or federal  
6 offices.

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

26           (w) Program audit. The Auditor General shall conduct a

1 program audit of the Office of the Inspector General on an  
2 as-needed basis, as determined by the Auditor General. The  
3 audit shall specifically include the Inspector General's  
4 compliance with the Act and effectiveness in investigating  
5 reports of allegations occurring in any facility or agency.  
6 The Auditor General shall conduct the program audit according  
7 to the provisions of the Illinois State Auditing Act and shall  
8 report its findings to the General Assembly no later than  
9 January 1 following the audit period.

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

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

25 (Source: P.A. 102-538, eff. 8-20-21; 102-883, eff. 5-13-22;  
26 102-1071, eff. 6-10-22; 103-76, eff. 6-9-23; 103-154, eff.

1 6-30-23.)".