

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 adding Section 1-17 as follows:

6 (20 ILCS 1305/1-17 new)

7 Sec. 1-17. Inspector General.

8 (a) Appointment; powers and duties. The Governor shall  
9 appoint, and the Senate shall confirm, an Inspector General.  
10 The Inspector General shall be appointed for a term of 4 years  
11 and shall function within the Department of Human Services and  
12 report to the Secretary of Human Services and the Governor. The  
13 Inspector General shall function independently within the  
14 Department of Human Services with respect to the operations of  
15 the office, including the performance of investigations and  
16 issuance of findings and recommendations. The appropriation  
17 for the Office of Inspector General shall be separate from the  
18 overall appropriation for the Department of Human Services. The  
19 Inspector General shall investigate reports of suspected abuse  
20 or neglect (as those terms are defined by the Department of  
21 Human Services) of patients or residents in any mental health  
22 or developmental disabilities facility operated by the  
23 Department of Human Services and shall have authority to

1 investigate and take immediate action on reports of abuse or  
2 neglect of recipients, whether patients or residents, in any  
3 mental health or developmental disabilities facility or  
4 program that is licensed or certified by the Department of  
5 Human Services (as successor to the Department of Mental Health  
6 and Developmental Disabilities) or that is funded by the  
7 Department of Human Services (as successor to the Department of  
8 Mental Health and Developmental Disabilities) and is not  
9 licensed or certified by any agency of the State. The Inspector  
10 General shall also have the authority to investigate alleged or  
11 suspected cases of abuse, neglect, and exploitation of adults  
12 with disabilities living in domestic settings in the community  
13 pursuant to the Abuse of Adults with Disabilities Intervention  
14 Act (20 ILCS 2435/). At the specific, written request of an  
15 agency of the State other than the Department of Human Services  
16 (as successor to the Department of Mental Health and  
17 Developmental Disabilities), the Inspector General may  
18 cooperate in investigating reports of abuse and neglect of  
19 persons with mental illness or persons with developmental  
20 disabilities. The Inspector General shall have no supervision  
21 over or involvement in routine, programmatic, licensure, or  
22 certification operations of the Department of Human Services or  
23 any of its funded agencies.

24 The Inspector General shall promulgate rules establishing  
25 minimum requirements for reporting allegations of abuse and  
26 neglect and initiating, conducting, and completing

1 investigations. The promulgated rules shall clearly set forth  
2 that in instances where 2 or more State agencies could  
3 investigate an allegation of abuse or neglect, the Inspector  
4 General shall not conduct an investigation that is redundant to  
5 an investigation conducted by another State agency. The rules  
6 shall establish criteria for determining, based upon the nature  
7 of the allegation, the appropriate method of investigation,  
8 which may include, but need not be limited to, site visits,  
9 telephone contacts, or requests for written responses from  
10 agencies. The rules shall also clarify how the Office of the  
11 Inspector General shall interact with the licensing unit of the  
12 Department of Human Services in investigations of allegations  
13 of abuse or neglect. Any allegations or investigations of  
14 reports made pursuant to this Act shall remain confidential  
15 until a final report is completed. The resident or patient who  
16 allegedly was abused or neglected and his or her legal guardian  
17 shall be informed by the facility or agency of the report of  
18 alleged abuse or neglect. Final reports regarding  
19 unsubstantiated or unfounded allegations shall remain  
20 confidential, except that final reports may be disclosed  
21 pursuant to Section 6 of the Abused and Neglected Long Term  
22 Care Facility Residents Reporting Act.

23 For purposes of this Section, "required reporter" means a  
24 person who suspects, witnesses, or is informed of an allegation  
25 of abuse and neglect at a State-operated facility or a  
26 community agency and who is either: (i) a person employed at a

1 State-operated facility or a community agency on or off site  
2 who is providing or monitoring services to an individual or  
3 individuals or is providing services to the State-operated  
4 facility or the community agency; or (ii) any person or  
5 contractual agent of the Department of Human Services involved  
6 in providing, monitoring, or administering mental health or  
7 developmental services, including, but not limited to, payroll  
8 personnel, contractors, subcontractors, and volunteers. A  
9 required reporter shall report the allegation of abuse or  
10 neglect, or cause a report to be made, to the Office of the  
11 Inspector General (OIG) Hotline no later than 4 hours after the  
12 initial discovery of the incident of alleged abuse or neglect.  
13 A required reporter as defined in this paragraph who willfully  
14 fails to comply with the reporting requirement is guilty of a  
15 Class A misdemeanor.

16 For purposes of this Section, "State-operated facility"  
17 means a mental health facility or a developmental disability  
18 facility as defined in Sections 1-114 and 1-107 of the Mental  
19 Health and Developmental Disabilities Code.

20 For purposes of this Section, "community agency" or  
21 "agency" means any community entity or program providing mental  
22 health or developmental disabilities services that is  
23 licensed, certified, or funded by the Department of Human  
24 Services and is not licensed or certified by an other human  
25 services agency of the State (for example, the Department of  
26 Public Health, the Department of Children and Family Services,

1 or the Department of Healthcare and Family Services).

2 When the Office of the Inspector General has substantiated  
3 a case of abuse or neglect, the Inspector General shall include  
4 in the final report any mitigating or aggravating circumstances  
5 that were identified during the investigation. Upon  
6 determination that a report of neglect is substantiated, the  
7 Inspector General shall then determine whether such neglect  
8 risers to the level of egregious neglect.

9 (b) Department of State Police. The Inspector General  
10 shall, within 24 hours after determining that a reported  
11 allegation of suspected abuse or neglect indicates that any  
12 possible criminal act has been committed or that special  
13 expertise is required in the investigation, immediately notify  
14 the Department of State Police or the appropriate law  
15 enforcement entity. The Department of State Police shall  
16 investigate any report from a State-operated facility  
17 indicating a possible murder, rape, or other felony. All  
18 investigations conducted by the Inspector General shall be  
19 conducted in a manner designed to ensure the preservation of  
20 evidence for possible use in a criminal prosecution.

21 (b-5) Preliminary report of investigation; facility or  
22 agency response. The Inspector General shall make a  
23 determination to accept or reject a preliminary report of the  
24 investigation of alleged abuse or neglect based on established  
25 investigative procedures. Notice of the Inspector General's  
26 determination must be given to the person who claims to be the

1 victim of the abuse or neglect, to the person or persons  
2 alleged to have been responsible for abuse or neglect, and to  
3 the facility or agency. The facility or agency or the person or  
4 persons alleged to have been responsible for the abuse or  
5 neglect and the person who claims to be the victim of the abuse  
6 or neglect may request clarification or reconsideration based  
7 on additional information. For cases where the allegation of  
8 abuse or neglect is substantiated, the Inspector General shall  
9 require the facility or agency to submit a written response.  
10 The written response from a facility or agency shall address in  
11 a concise and reasoned manner the actions that the agency or  
12 facility will take or has taken to protect the resident or  
13 patient from abuse or neglect, prevent reoccurrences, and  
14 eliminate problems identified and shall include implementation  
15 and completion dates for all such action.

16 (c) Inspector General's report; facility's or agency's  
17 implementation reports. The Inspector General shall, within 10  
18 calendar days after the transmittal date of a completed  
19 investigation where abuse or neglect is substantiated or  
20 administrative action is recommended, provide a complete  
21 report on the case to the Secretary of Human Services and to  
22 the agency in which the abuse or neglect is alleged to have  
23 happened. The complete report shall include a written response  
24 from the agency or facility operated by the State to the  
25 Inspector General that addresses in a concise and reasoned  
26 manner the actions that the agency or facility will take or has

1 taken to protect the resident or patient from abuse or neglect,  
2 prevent reoccurrences, and eliminate problems identified and  
3 shall include implementation and completion dates for all such  
4 action. The Secretary of Human Services shall accept or reject  
5 the response and establish how the Department will determine  
6 whether the facility or program followed the approved response.  
7 The Secretary may require Department personnel to visit the  
8 facility or agency for training, technical assistance,  
9 programmatic, licensure, or certification purposes.  
10 Administrative action, including sanctions, may be applied  
11 should the Secretary reject the response or should the facility  
12 or agency fail to follow the approved response. Within 30 days  
13 after the Secretary has approved a response, the facility or  
14 agency making the response shall provide an implementation  
15 report to the Inspector General on the status of the corrective  
16 action implemented. Within 60 days after the Secretary has  
17 approved the response, the facility or agency shall send notice  
18 of the completion of the corrective action or shall send an  
19 updated implementation report. The facility or agency shall  
20 continue sending updated implementation reports every 60 days  
21 until the facility or agency sends a notice of the completion  
22 of the corrective action. The Inspector General shall review  
23 any implementation plan that takes more than 120 days. The  
24 Inspector General shall monitor compliance through a random  
25 review of completed corrective actions. This monitoring may  
26 include, but need not be limited to, site visits, telephone

1 contacts, or requests for written documentation from the  
2 facility or agency to determine whether the facility or agency  
3 is in compliance with the approved response. The facility or  
4 agency shall inform the resident or patient and the legal  
5 guardian whether the reported allegation was substantiated,  
6 unsubstantiated, or unfounded. There shall be an appeals  
7 process for any person or agency that is subject to any action  
8 based on a recommendation or recommendations.

9 (d) Sanctions. The Inspector General may recommend to the  
10 Departments of Public Health and Human Services sanctions to be  
11 imposed against mental health and developmental disabilities  
12 facilities under the jurisdiction of the Department of Human  
13 Services for the protection of residents, including  
14 appointment of on-site monitors or receivers, transfer or  
15 relocation of residents, and closure of units. The Inspector  
16 General may seek the assistance of the Attorney General or any  
17 of the several State's Attorneys in imposing such sanctions.  
18 Whenever the Inspector General issues any recommendations to  
19 the Secretary of Human Services, the Secretary shall provide a  
20 written response.

21 (e) Training programs. The Inspector General shall  
22 establish and conduct periodic training programs for  
23 Department of Human Services employees and community agency  
24 employees concerning the prevention and reporting of neglect  
25 and abuse.

26 (f) Access to facilities. The Inspector General shall at



1 all times be granted access to any mental health or  
2 developmental disabilities facility operated by the Department  
3 of Human Services, shall establish and conduct unannounced site  
4 visits to those facilities at least once annually, and shall be  
5 granted access, for the purpose of investigating a report of  
6 abuse or neglect, to the records of the Department of Human  
7 Services and to any facility or program funded by the  
8 Department of Human Services that is subject under the  
9 provisions of this Section to investigation by the Inspector  
10 General for a report of abuse or neglect.

11 (g) Other investigations. Nothing in this Section shall  
12 limit investigations by the Department of Human Services that  
13 may otherwise be required by law or that may be necessary in  
14 that Department's capacity as the central administrative  
15 authority responsible for the operation of State mental health  
16 and developmental disability facilities.

17 (g-5) Health care worker registry. After notice and an  
18 opportunity for a hearing that is separate and distinct from  
19 the Office of the Inspector General's appeals process as  
20 implemented under subsection (c) of this Section, the Inspector  
21 General shall report to the Department of Public Health's  
22 health care worker registry under Section 3-206.01 of the  
23 Nursing Home Care Act the identity of individuals against whom  
24 there has been a substantiated finding of physical or sexual  
25 abuse or egregious neglect of a service recipient.

26 Nothing in this subsection shall diminish or impair the

1 rights of a person who is a member of a collective bargaining  
2 unit pursuant to the Illinois Public Labor Relations Act or  
3 pursuant to any federal labor statute. An individual who is a  
4 member of a collective bargaining unit as described above shall  
5 not be reported to the Department of Public Health's health  
6 care worker registry until the exhaustion of that individual's  
7 grievance and arbitration rights, or until 3 months after the  
8 initiation of the grievance process, whichever occurs first,  
9 provided that the Department of Human Services' hearing under  
10 this subsection regarding the reporting of an individual to the  
11 Department of Public Health's health care worker registry has  
12 concluded. Notwithstanding anything hereinafter or previously  
13 provided, if an action taken by an employer against an  
14 individual as a result of the circumstances that led to a  
15 finding of physical or sexual abuse or egregious neglect is  
16 later overturned under a grievance or arbitration procedure  
17 provided for in Section 8 of the Illinois Public Labor  
18 Relations Act or under a collective bargaining agreement, the  
19 report must be removed from the registry.

20 The Department of Human Services shall promulgate or amend  
21 rules as necessary or appropriate to establish procedures for  
22 reporting to the registry, including the definition of  
23 egregious neglect, procedures for notice to the individual and  
24 victim, appeal and hearing procedures, and petition for removal  
25 of the report from the registry. The portion of the rules  
26 pertaining to hearings shall provide that, at the hearing, both

1 parties may present written and oral evidence. The Department  
2 shall be required to establish by a preponderance of the  
3 evidence that the Office of the Inspector General's finding of  
4 physical or sexual abuse or egregious neglect warrants  
5 reporting to the Department of Public Health's health care  
6 worker registry under Section 3-206.01 of the Nursing Home Care  
7 Act.

8 Notice to the individual shall include a clear and concise  
9 statement of the grounds on which the report to the registry is  
10 based and notice of the opportunity for a hearing to contest  
11 the report. The Department of Human Services shall provide the  
12 notice by certified mail to the last known address of the  
13 individual. The notice shall give the individual an opportunity  
14 to contest the report in a hearing before the Department of  
15 Human Services or to submit a written response to the findings  
16 instead of requesting a hearing. If the individual does not  
17 request a hearing or if after notice and a hearing the  
18 Department of Human Services finds that the report is valid,  
19 the finding shall be included as part of the registry, as well  
20 as a brief statement from the reported individual if he or she  
21 chooses to make a statement. The Department of Public Health  
22 shall make available to the public information reported to the  
23 registry. In a case of inquiries concerning an individual  
24 listed in the registry, any information disclosed concerning a  
25 finding of abuse or neglect shall also include disclosure of  
26 the individual's brief statement in the registry relating to

1 the reported finding or include a clear and accurate summary of  
2 the statement.

3 At any time after the report of the registry, an individual  
4 may petition the Department of Human Services for removal from  
5 the registry of the finding against him or her. Upon receipt of  
6 such a petition, the Department of Human Services shall conduct  
7 an investigation and hearing on the petition. Upon completion  
8 of the investigation and hearing, the Department of Human  
9 Services shall report the removal of the finding to the  
10 registry unless the Department of Human Services determines  
11 that removal is not in the public interest.

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

23 Members appointed by the Governor shall be qualified by  
24 professional knowledge or experience in the area of law,  
25 investigatory techniques, or in the area of care of the  
26 mentally ill or developmentally disabled. Two members

1 appointed by the Governor shall be persons with a disability or  
2 a parent of a person with a disability. Members shall serve  
3 without compensation, but shall be reimbursed for expenses  
4 incurred in connection with the performance of their duties as  
5 members.

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

10 (i) Scope and function of the Quality Care Board. The Board  
11 shall monitor and oversee the operations, policies, and  
12 procedures of the Inspector General to assure the prompt and  
13 thorough investigation of allegations of neglect and abuse. In  
14 fulfilling these responsibilities, the Board may do the  
15 following:

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

19 (2) Review existing regulations relating to the  
20 operation of facilities under the control of the Department  
21 of Human Services.

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

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

1 agencies.

2 (j) Investigators. The Inspector General shall establish a  
3 comprehensive program to ensure that every person employed or  
4 newly hired to conduct investigations shall receive training on  
5 an on-going basis concerning investigative techniques,  
6 communication skills, and the appropriate means of contact with  
7 persons admitted or committed to the mental health or  
8 developmental disabilities facilities under the jurisdiction  
9 of the Department of Human Services.

10 (k) Subpoenas; testimony; penalty. The Inspector General  
11 shall have the power to subpoena witnesses and compel the  
12 production of books and papers pertinent to an investigation  
13 authorized by this Act, provided that the power to subpoena or  
14 to compel the production of books and papers shall not extend  
15 to the person or documents of a labor organization or its  
16 representatives insofar as the person or documents of a labor  
17 organization relate to the function of representing an employee  
18 subject to investigation under this Act. Mental health records  
19 of patients shall be confidential as provided under the Mental  
20 Health and Developmental Disabilities Confidentiality Act. Any  
21 person who fails to appear in response to a subpoena or to  
22 answer any question or produce any books or papers pertinent to  
23 an investigation under this Act, except as otherwise provided  
24 in this Section, or who knowingly gives false testimony in  
25 relation to an investigation under this Act is guilty of a  
26 Class A misdemeanor.

1       (l) Annual report. The Inspector General shall provide to  
2 the General Assembly and the Governor, no later than January 1  
3 of each year, a summary of reports and investigations made  
4 under this Act for the prior fiscal year with respect to  
5 residents of institutions under the jurisdiction of the  
6 Department of Human Services. The report shall detail the  
7 imposition of sanctions and the final disposition of those  
8 recommendations. The summaries shall not contain any  
9 confidential or identifying information concerning the  
10 subjects of the reports and investigations. The report shall  
11 also include a trend analysis of the number of reported  
12 allegations and their disposition, for each facility and  
13 Department-wide, for the most recent 3-year time period and a  
14 statement, for each facility, of the staffing-to-patient  
15 ratios. The ratios shall include only the number of direct care  
16 staff. The report shall also include detailed recommended  
17 administrative actions and matters for consideration by the  
18 General Assembly.

19       (m) Program audit. The Auditor General shall conduct a  
20 biennial program audit of the Office of the Inspector General  
21 in relation to the Inspector General's compliance with this  
22 Act. The audit shall specifically include the Inspector  
23 General's effectiveness in investigating reports of alleged  
24 neglect or abuse of residents in any facility operated by the  
25 Department of Human Services and in making recommendations for  
26 sanctions to the Departments of Human Services and Public

1 Health. The Auditor General shall conduct the program audit  
2 according to the provisions of the Illinois State Auditing Act  
3 and shall report its findings to the General Assembly no later  
4 than January 1 of each odd-numbered year.

5 Section 7. The Mental Health and Developmental  
6 Disabilities Administrative Act is amended by changing Section  
7 7.3 as follows:

8 (20 ILCS 1705/7.3)

9 Sec. 7.3. Health care worker ~~Nurse aide~~ registry; finding  
10 of abuse or neglect. The Department shall require that no  
11 facility, service agency, or support agency providing mental  
12 health or developmental disability services that is licensed,  
13 certified, operated, or funded by the Department shall employ a  
14 person, in any capacity, who is identified by the health care  
15 worker ~~nurse aide~~ registry as having been subject of a  
16 substantiated finding of abuse or neglect of a service  
17 recipient. Any owner or operator of a community agency who is  
18 identified by the health care worker ~~nurse aide~~ registry as  
19 having been the subject of a substantiated finding of abuse or  
20 neglect of a service recipient is prohibited from any  
21 involvement in any capacity with the provision of Department  
22 funded mental health or developmental disability services. The  
23 Department shall establish and maintain the rules that are  
24 necessary or appropriate to effectuate the intent of this



1 Section. The provisions of this Section shall not apply to any  
2 facility, service agency, or support agency licensed or  
3 certified by a State agency other than the Department, unless  
4 operated by the Department of Human Services.

5 (Source: P.A. 94-934, eff. 6-26-06.)

6 Section 10. The Abused and Neglected Long Term Care  
7 Facility Residents Reporting Act is amended by changing Section  
8 6 as follows:

9 (210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

10 Sec. 6. All reports of suspected abuse or neglect made  
11 under this Act shall be made immediately by telephone to the  
12 Department's central register established under Section 14 on  
13 the single, State-wide, toll-free telephone number established  
14 under Section 13, or in person or by telephone through the  
15 nearest Department office. No long term care facility  
16 administrator, agent or employee, or any other person, shall  
17 screen reports or otherwise withhold any reports from the  
18 Department, and no long term care facility, department of State  
19 government, or other agency shall establish any rules,  
20 criteria, standards or guidelines to the contrary. Every long  
21 term care facility, department of State government and other  
22 agency whose employees are required to make or cause to be made  
23 reports under Section 4 shall notify its employees of the  
24 provisions of that Section and of this Section, and provide to

1 the Department documentation that such notification has been  
2 given. The Department of Human Services shall train all of its  
3 mental health and developmental disabilities employees in the  
4 detection and reporting of suspected abuse and neglect of  
5 residents. Reports made to the central register through the  
6 State-wide, toll-free telephone number shall be transmitted to  
7 appropriate Department offices and municipal health  
8 departments that have responsibility for licensing long term  
9 care facilities under the Nursing Home Care Act. All reports  
10 received through offices of the Department shall be forwarded  
11 to the central register, in a manner and form described by the  
12 Department. The Department shall be capable of receiving  
13 reports of suspected abuse and neglect 24 hours a day, 7 days a  
14 week. Reports shall also be made in writing deposited in the  
15 U.S. mail, postage prepaid, within 24 hours after having  
16 reasonable cause to believe that the condition of the resident  
17 resulted from abuse or neglect. Such reports may in addition be  
18 made to the local law enforcement agency in the same manner.  
19 However, in the event a report is made to the local law  
20 enforcement agency, the reporter also shall immediately so  
21 inform the Department. The Department shall initiate an  
22 investigation of each report of resident abuse and neglect  
23 under this Act, whether oral or written, as provided for in  
24 Section 3-702 of the Nursing Home Care Act, except that reports  
25 of abuse which indicate that a resident's life or safety is in  
26 imminent danger shall be investigated within 24 hours of such

1 report. The Department may delegate to law enforcement  
2 officials or other public agencies the duty to perform such  
3 investigation.

4 With respect to investigations of reports of suspected  
5 abuse or neglect of residents of mental health and  
6 developmental disabilities institutions under the jurisdiction  
7 of the Department of Human Services, the Department shall  
8 transmit copies of such reports to the Department of State  
9 Police, the Department of Human Services, and the Inspector  
10 General appointed under Section 1-17 of the Department of Human  
11 Services Act 6.2. If the Department receives a report of  
12 suspected abuse or neglect of a recipient of services as  
13 defined in Section 1-123 of the Mental Health and Developmental  
14 Disabilities Code, the Department shall transmit copies of such  
15 report to the Inspector General and the Directors of the  
16 Guardianship and Advocacy Commission and the agency designated  
17 by the Governor pursuant to the Protection and Advocacy for  
18 Developmentally Disabled Persons Act. When requested by the  
19 Director of the Guardianship and Advocacy Commission, the  
20 agency designated by the Governor pursuant to the Protection  
21 and Advocacy for Developmentally Disabled Persons Act, or the  
22 Department of Financial and Professional Regulation, the  
23 Department, the Department of Human Services and the Department  
24 of State Police shall make available a copy of the final  
25 investigative report regarding investigations conducted by  
26 their respective agencies on incidents of suspected abuse or

1 neglect of residents of mental health and developmental  
2 disabilities institutions or individuals receiving services at  
3 community agencies under the jurisdiction of the Department of  
4 Human Services. Such final investigative report shall not  
5 contain witness statements, investigation notes, draft  
6 summaries, results of lie detector tests, investigative files  
7 or other raw data which was used to compile the final  
8 investigative report. Specifically, the final investigative  
9 report of the Department of State Police shall mean the  
10 Director's final transmittal letter. The Department of Human  
11 Services shall also make available a copy of the results of  
12 disciplinary proceedings of employees involved in incidents of  
13 abuse or neglect to the Directors. All identifiable information  
14 in reports provided shall not be further disclosed except as  
15 provided by the Mental Health and Developmental Disabilities  
16 Confidentiality Act. Nothing in this Section is intended to  
17 limit or construe the power or authority granted to the agency  
18 designated by the Governor pursuant to the Protection and  
19 Advocacy for Developmentally Disabled Persons Act, pursuant to  
20 any other State or federal statute.

21 With respect to investigations of reported resident abuse  
22 or neglect, the Department shall effect with appropriate law  
23 enforcement agencies formal agreements concerning methods and  
24 procedures for the conduct of investigations into the criminal  
25 histories of any administrator, staff assistant or employee of  
26 the nursing home or other person responsible for the residents

1 care, as well as for other residents in the nursing home who  
2 may be in a position to abuse, neglect or exploit the patient.  
3 Pursuant to the formal agreements entered into with appropriate  
4 law enforcement agencies, the Department may request  
5 information with respect to whether the person or persons set  
6 forth in this paragraph have ever been charged with a crime and  
7 if so, the disposition of those charges. Unless the criminal  
8 histories of the subjects involved crimes of violence or  
9 resident abuse or neglect, the Department shall be entitled  
10 only to information limited in scope to charges and their  
11 dispositions. In cases where prior crimes of violence or  
12 resident abuse or neglect are involved, a more detailed report  
13 can be made available to authorized representatives of the  
14 Department, pursuant to the agreements entered into with  
15 appropriate law enforcement agencies. Any criminal charges and  
16 their disposition information obtained by the Department shall  
17 be confidential and may not be transmitted outside the  
18 Department, except as required herein, to authorized  
19 representatives or delegates of the Department, and may not be  
20 transmitted to anyone within the Department who is not duly  
21 authorized to handle resident abuse or neglect investigations.

22 The Department shall effect formal agreements with  
23 appropriate law enforcement agencies in the various counties  
24 and communities to encourage cooperation and coordination in  
25 the handling of resident abuse or neglect cases pursuant to  
26 this Act. The Department shall adopt and implement methods and

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

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

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

22 (Source: P.A. 94-852, eff. 6-13-06.)

23 (210 ILCS 30/6.2 rep.)

24 (210 ILCS 30/6.3 rep.)

25 (210 ILCS 30/6.4 rep.)

1 (210 ILCS 30/6.5 rep.)

2 (210 ILCS 30/6.6 rep.)

3 (210 ILCS 30/6.7 rep.)

4 (210 ILCS 30/6.8 rep.)

5 Section 15. The Abused and Neglected Long Term Care  
6 Facility Residents Reporting Act is amended by repealing  
7 Sections 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, and 6.8.

8 Section 20. The Nursing Home Care Act is amended by  
9 changing Section 3-206.01 as follows:

10 (210 ILCS 45/3-206.01) (from Ch. 111 1/2, par. 4153-206.01)  
11 Sec. 3-206.01. Health care worker ~~Nurse aide~~ registry.

12 (a) The Department shall establish and maintain a registry  
13 of all individuals who have satisfactorily completed the  
14 training required by Section 3-206. The registry shall include  
15 the name of the nursing assistant, habilitation aide, or child  
16 care aide, his or her current address, Social Security number,  
17 and the date and location of the training course completed by  
18 the individual, and the date of the individual's last criminal  
19 records check. Any individual placed on the registry is  
20 required to inform the Department of any change of address  
21 within 30 days. A facility shall not employ an individual as a  
22 nursing assistant, habilitation aide, or child care aide unless  
23 the facility has inquired of the Department as to information  
24 in the registry concerning the individual and shall not employ

1 anyone not on the registry unless the individual is enrolled in  
2 a training program under paragraph (5) of subsection (a) of  
3 Section 3-206 of this Act.

4 If the Department finds that a nursing assistant,  
5 habilitation aide, or child care aide has abused a resident,  
6 neglected a resident, or misappropriated resident property in a  
7 facility, the Department shall notify the individual of this  
8 finding by certified mail sent to the address contained in the  
9 registry. The notice shall give the individual an opportunity  
10 to contest the finding in a hearing before the Department or to  
11 submit a written response to the findings in lieu of requesting  
12 a hearing. If, after a hearing or if the individual does not  
13 request a hearing, the Department finds that the individual  
14 abused a resident, neglected a resident, or misappropriated  
15 resident property in a facility, the finding shall be included  
16 as part of the registry as well as a brief statement from the  
17 individual, if he or she chooses to make such a statement. The  
18 Department shall make information in the registry available to  
19 the public. In the case of inquiries to the registry concerning  
20 an individual listed in the registry, any information disclosed  
21 concerning such a finding shall also include disclosure of any  
22 statement in the registry relating to the finding or a clear  
23 and accurate summary of the statement.

24 (b) The Department shall add to the health care worker  
25 ~~nurse-aide~~ registry records of findings as reported by the  
26 Inspector General or remove from the health care worker ~~nurse~~



1 ~~aid~~ registry records of findings as reported by the Department  
2 of Human Services, under subsection (g-5) of Section 1-17 of  
3 the Department of Human Services Act ~~Section 6.2 of the Abused~~  
4 ~~and Neglected Long Term Care Facility Residents Reporting Act.~~  
5 (Source: P.A. 91-598, eff. 1-1-00; 92-473, eff. 1-1-02; 92-651,  
6 eff. 7-11-02.)

7 Section 25. The Health Care Worker Background Check Act is  
8 amended by changing Sections 30 and 40 as follows:

9 (225 ILCS 46/30)

10 Sec. 30. Non-fingerprint based UCIA criminal records  
11 check.

12 (a) Beginning on January 1, 1997, an educational entity,  
13 other than a secondary school, conducting a nurse aide training  
14 program must initiate a UCIA criminal history records check  
15 prior to entry of an individual into the training program. A  
16 nurse aide seeking to be included on the health care worker  
17 ~~nurse aide~~ registry shall authorize the Department of Public  
18 Health or its designee that tests nurse aides or the health  
19 care employer or its designee to request a criminal history  
20 record check pursuant to the Uniform Conviction Information Act  
21 (UCIA) for each nurse aide applying for inclusion on the State  
22 health care worker ~~nurse aide~~ registry. Any nurse aide not  
23 submitting the required authorization and information for the  
24 record check will not be added to the State health care worker

1 ~~nurse aide~~ registry. A nurse aide will not be entered on the  
2 State health care worker ~~nurse aide~~ registry if the report from  
3 the Department of State Police indicates that the nurse aide  
4 has a record of conviction of any of the criminal offenses  
5 enumerated in Section 25 unless the nurse aide's identity is  
6 validated and it is determined that the nurse aide does not  
7 have a disqualifying criminal history record based upon a  
8 fingerprint-based records check pursuant to Section 35 or the  
9 nurse aide receives a waiver pursuant to Section 40.

10 (b) The Department of Public Health shall notify each  
11 health care employer inquiring as to the information on the  
12 State health care worker ~~nurse aide~~ registry of the date of the  
13 nurse aide's last UCIA criminal history record check. If it has  
14 been more than one year since the records check, the health  
15 care employer must initiate or have initiated on his or her  
16 behalf a UCIA criminal history record check for the nurse aide  
17 pursuant to this Section. The health care employer must send a  
18 copy of the results of the record check to the State health  
19 care worker ~~nurse aide~~ registry for an individual employed as a  
20 nurse aide.

21 (c) Beginning January 1, 1996, a health care employer who  
22 makes a conditional offer of employment to an applicant other  
23 than a nurse aide for position with duties that involve direct  
24 care for clients, patients, or residents must initiate or have  
25 initiated on his or her behalf a UCIA criminal history record  
26 check for that applicant.

1           (d) No later than January 1, 1997, a health care employer  
2 must initiate or have initiated on his or her behalf a UCIA  
3 criminal history record check for all employees other than  
4 those enumerated in subsections (a), (b), and (c) of this  
5 Section with duties that involve direct care for clients,  
6 patients, or residents. A health care employer having actual  
7 knowledge from a source other than a non-fingerprint check that  
8 an employee has been convicted of committing or attempting to  
9 commit one of the offenses enumerated in Section 25 of this Act  
10 must initiate a fingerprint-based background check within 10  
11 working days of acquiring that knowledge. The employer may  
12 continue to employ that individual in a direct care position,  
13 may reassign that individual to a non-direct care position, or  
14 may suspend the individual until the results of the  
15 fingerprint-based background check are received.

16           (d-5) Beginning January 1, 2006, each long-term care  
17 facility operating in the State must initiate, or have  
18 initiated on its behalf, a criminal history record check for  
19 all employees hired on or after January 1, 2006 with duties  
20 that involve or may involve contact with residents or access to  
21 the living quarters or the financial, medical, or personal  
22 records of residents.

23           (e) The request for a UCIA criminal history record check  
24 must be in the form prescribed by the Department of State  
25 Police.

26           (f) The applicant or employee must be notified of the

1 following whenever a non-fingerprint check is made:

2 (i) that the health care employer shall request or have  
3 requested on his or her behalf a UCIA criminal history  
4 record check pursuant to this Act;

5 (ii) that the applicant or employee has a right to  
6 obtain a copy of the criminal records report from the  
7 health care employer, challenge the accuracy and  
8 completeness of the report, and request a waiver under  
9 Section 40 of this Act;

10 (iii) that the applicant, if hired conditionally, may  
11 be terminated if the criminal records report indicates that  
12 the applicant has a record of conviction of any of the  
13 criminal offenses enumerated in Section 25 unless the  
14 applicant's identity is validated and it is determined that  
15 the applicant does not have a disqualifying criminal  
16 history record based on a fingerprint-based records check  
17 pursuant to Section 35.

18 (iv) that the applicant, if not hired conditionally,  
19 shall not be hired if the criminal records report indicates  
20 that the applicant has a record of conviction of any of the  
21 criminal offenses enumerated in Section 25 unless the  
22 applicant's record is cleared based on a fingerprint-based  
23 records check pursuant to Section 35.

24 (v) that the employee may be terminated if the criminal  
25 records report indicates that the employee has a record of  
26 conviction of any of the criminal offenses enumerated in

1 Section 25 unless the employee's record is cleared based on  
2 a fingerprint-based records check pursuant to Section 35.

3 (g) A health care employer may conditionally employ an  
4 applicant for up to 3 months pending the results of a UCIA  
5 criminal history record check.

6 (Source: P.A. 94-665, eff. 1-1-06.)

7 (225 ILCS 46/40)

8 Sec. 40. Waiver.

9 (a) An applicant, employee, or nurse aide may request a  
10 waiver of the prohibition against employment by submitting the  
11 following information to the entity responsible for  
12 inspecting, licensing, certifying, or registering the health  
13 care employer within 5 working days after the receipt of the  
14 criminal records report:

15 (1) Information necessary to initiate a  
16 fingerprint-based UCIA criminal records check in a form and  
17 manner prescribed by the Department of State Police; and

18 (2) The fee for a fingerprint-based UCIA criminal  
19 records check, which shall not exceed the actual cost of  
20 the record check.

21 (a-5) The entity responsible for inspecting, licensing,  
22 certifying, or registering the health care employer may accept  
23 the results of the fingerprint-based UCIA criminal records  
24 check instead of the items required by paragraphs (1) and (2)  
25 of subsection (a).

1 (b) The entity responsible for inspecting, licensing,  
2 certifying, or registering the health care employer may grant a  
3 waiver based upon any mitigating circumstances, which may  
4 include, but need not be limited to:

5 (1) The age of the individual at which the crime was  
6 committed;

7 (2) The circumstances surrounding the crime;

8 (3) The length of time since the conviction;

9 (4) The applicant or employee's criminal history since  
10 the conviction;

11 (5) The applicant or employee's work history;

12 (6) The applicant or employee's current employment  
13 references;

14 (7) The applicant or employee's character references;

15 (8) Health care worker ~~Nurse-aide~~ registry records; and

16 (9) Other evidence demonstrating the ability of the  
17 applicant or employee to perform the employment  
18 responsibilities competently and evidence that the  
19 applicant or employee does not pose a threat to the health  
20 or safety of residents, patients, or clients.

21 (c) The entity responsible for inspecting, licensing,  
22 certifying, or registering a health care employer must inform  
23 the health care employer if a waiver is being sought and must  
24 act upon the waiver request within 30 days of receipt of all  
25 necessary information, as defined by rule.

26 (d) An individual shall not be employed from the time that

1 the employer receives the results of a non-fingerprint check  
2 containing disqualifying conditions until the time that the  
3 individual receives a waiver from the Department. If the  
4 individual challenges the results of the non-fingerprint  
5 check, the employer may continue to employ the individual if  
6 the individual presents convincing evidence to the employer  
7 that the non-fingerprint check is invalid. If the individual  
8 challenges the results of the non-fingerprint check, his or her  
9 identity shall be validated by a fingerprint-based records  
10 check in accordance with Section 35.

11 (e) The entity responsible for inspecting, licensing,  
12 certifying, or registering the health care employer shall be  
13 immune from liability for any waivers granted under this  
14 Section.

15 (f) A health care employer is not obligated to employ or  
16 offer permanent employment to an applicant, or to retain an  
17 employee who is granted a waiver under this Section.

18 (Source: P.A. 94-665, eff. 1-1-06.)

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