



Sen. Don Harmon

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LRB096 17346 KTG 39015 a

1 AMENDMENT TO SENATE BILL 2809

2 AMENDMENT NO. _____. Amend Senate Bill 2809 by replacing
3 everything after the enacting clause with the following:

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 (Text of Section before amendment by P.A. 96-339)

8 Sec. 1-17. Inspector General.

9 (a) Nature and purpose. It is the express intent of the
10 General Assembly to ensure the health, safety, and financial
11 condition of individuals receiving services in this State due
12 to mental illness, developmental disability, or both by
13 protecting those persons from acts of abuse, neglect, or both
14 by service providers. To that end, the Office of the Inspector
15 General for the Department of Human Services is created to
16 investigate and report upon allegations of the abuse, neglect,

1 or financial exploitation of individuals receiving services
2 within mental health facilities, developmental disabilities
3 facilities, and community agencies operated, licensed, funded
4 or certified by the Department of Human Services , but not
5 licensed or certified by any other State agency. It is also the
6 express intent of the General Assembly to authorize the
7 Inspector General to investigate alleged or suspected cases of
8 abuse, neglect, or financial exploitation of adults with
9 disabilities living in domestic settings in the community under
10 the Abuse of Adults with Disabilities Intervention Act.

11 (b) Definitions. The following definitions apply to this
12 Section:

13 "Agency" or "community agency" means (i) a community agency
14 licensed, funded, or certified by the Department , but not
15 licensed or certified by any other human services agency of the
16 State, to provide mental health service or developmental
17 disabilities service, or (ii) a program licensed, funded, or
18 certified by the Department , but not licensed or certified by
19 any other human services agency of the State, to provide mental
20 health service or developmental disabilities service.

21 "Aggravating circumstance" means a factor that is
22 attendant to a finding and that tends to compound or increase
23 the culpability of the accused.

24 "Allegation" means an assertion, complaint, suspicion, or
25 incident involving any of the following conduct by an employee,
26 facility, or agency against an individual or individuals:

1 mental abuse, physical abuse, sexual abuse, neglect, or
2 financial exploitation.

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

4 "Deflection" means a situation in which an individual is
5 presented for admission to a facility or agency, and the
6 facility staff or agency staff do not admit the individual.
7 "Deflection" includes triage, redirection, and denial of
8 admission.

9 "Department" means the Department of Human Services.

10 "Developmentally disabled" means having a developmental
11 disability.

12 "Developmental disability" means "developmental
13 disability" as defined in the Mental Health and Developmental
14 Disabilities Code.

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

22 "Employee" means any person who provides services at the
23 facility or agency on-site or off-site. The service
24 relationship can be with the individual or with the facility or
25 agency. Also, "employee" includes any employee or contractual
26 agent of the Department of Human Services or the community

1 agency involved in providing or monitoring or administering
2 mental health or developmental disability services. This
3 includes but is not limited to: owners, operators, payroll
4 personnel, contractors, subcontractors, and volunteers.

5 "Facility" or "State-operated facility" means a mental
6 health facility or developmental disabilities facility
7 operated by the Department.

8 "Financial exploitation" means taking unjust advantage of
9 an individual's assets, property, or financial resources
10 through deception, intimidation, or conversion for the
11 employee's, facility's, or agency's own advantage or benefit.

12 "Finding" means the Office of Inspector General's
13 determination regarding whether an allegation is
14 substantiated, unsubstantiated, or unfounded.

15 "Health care worker registry" or "registry" means the
16 health care worker registry created by the Nursing Home Care
17 Act.

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

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

1 "Mental illness" means "mental illness" as defined in the
2 Mental Health and Developmental Disabilities Code.

3 "Mentally ill" means having a mental illness.

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

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

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

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

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.

13 "Substantiated" means there is a preponderance of the
14 evidence to support the allegation.

15 "Unfounded" means there is no credible evidence to support
16 the allegation.

17 "Unsubstantiated" means there is credible evidence, but
18 less than a preponderance of evidence to support the
19 allegation.

20 (c) Appointment. The Governor shall appoint, and the Senate
21 shall confirm, an Inspector General. The Inspector General
22 shall be appointed for a term of 4 years and shall function
23 within the Department of Human Services and report to the
24 Secretary and the Governor.

25 (d) Operation and appropriation. The Inspector General
26 shall function independently within the Department with

1 respect to the operations of the Office, including the
2 performance of investigations and issuance of findings and
3 recommendations. The appropriation for the Office of Inspector
4 General shall be separate from the overall appropriation for
5 the Department.

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

1 under the State Officials and Employees Ethics Act shall be
2 referred to the Office of the Governor's Executive Inspector
3 General for investigation.

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

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

1 licensing, funding, or certification units of the Department in
2 preventing further occurrences of mental abuse, physical
3 abuse, sexual abuse, neglect, egregious neglect, and financial
4 exploitation.

5 (h) Training programs. The Inspector General shall (i)
6 establish a comprehensive program to ensure that every person
7 authorized to conduct investigations receives ongoing training
8 relative to investigation techniques, communication skills,
9 and the appropriate means of interacting with persons receiving
10 treatment for mental illness, developmental disability, or
11 both mental illness and developmental disability, and (ii)
12 establish and conduct periodic training programs for facility
13 and agency employees concerning the prevention and reporting of
14 any one or more of the following: mental abuse, physical abuse,
15 sexual abuse, neglect, egregious neglect, or financial
16 exploitation. Nothing in this Section shall be deemed to
17 prevent the Office of Inspector General from conducting any
18 other training as determined by the Inspector General to be
19 necessary or helpful.

20 (i) Duty to cooperate.

21 (1) The Inspector General shall at all times be granted
22 access to any facility or agency for the purpose of
23 investigating any allegation, conducting unannounced site
24 visits, monitoring compliance with a written response, or
25 completing any other statutorily assigned duty. The
26 Inspector General shall conduct unannounced site visits to

1 each facility at least annually for the purpose of
2 reviewing and making recommendations on systemic issues
3 relative to preventing, reporting, investigating, and
4 responding to all of the following: mental abuse, physical
5 abuse, sexual abuse, neglect, egregious neglect, or
6 financial exploitation.

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

24 (j) Subpoena powers. The Inspector General shall have the
25 power to subpoena witnesses and compel the production of all
26 documents and physical evidence relating to his or her

1 investigations and any hearings authorized by this Act. This
2 subpoena power shall not extend to persons or documents of a
3 labor organization or its representatives insofar as the
4 persons are acting in a representative capacity to an employee
5 whose conduct is the subject of an investigation or the
6 documents relate to that representation. Any person who
7 otherwise fails to respond to a subpoena or who knowingly
8 provides false information to the Office of the Inspector
9 General by subpoena during an investigation is guilty of a
10 Class A misdemeanor.

11 (k) Reporting allegations and deaths.

12 (1) Allegations. If an employee witnesses, is told of,
13 or has reason to believe an incident of mental abuse,
14 physical abuse, sexual abuse, neglect, or financial
15 exploitation has occurred, the employee, agency, or
16 facility shall report the allegation by phone to the Office
17 of the Inspector General hotline according to the agency's
18 or facility's procedures, but in no event later than 4
19 hours after the initial discovery of the incident,
20 allegation, or suspicion of any one or more of the
21 following: mental abuse, physical abuse, sexual abuse,
22 neglect, or financial exploitation. A required reporter as
23 defined in subsection (b) of this Section who knowingly or
24 intentionally fails to comply with these reporting
25 requirements is guilty of a Class A misdemeanor.

26 (2) Deaths. Absent an allegation, a required reporter

1 shall, within 24 hours after initial discovery, report by
2 phone to the Office of the Inspector General hotline each
3 of the following:

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

7 (ii) Any death of an individual occurring within 24
8 hours after deflection from a residential program or
9 facility.

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

12 (3) Retaliation. It is a violation of this Act for any
13 employee or administrator of an agency or facility to take
14 retaliatory action against an employee who acts in good
15 faith in conformance with his or her duties as a required
16 reporter.

17 (1) Reporting criminal acts. Within 24 hours after
18 determining that there is credible evidence indicating that a
19 criminal act may have been committed or that special expertise
20 may be required in an investigation, the Inspector General
21 shall notify the Department of State Police or other
22 appropriate law enforcement authority, or ensure that such
23 notification is made. The Department of State Police shall
24 investigate any report from a State-operated facility
25 indicating a possible murder, sexual assault, or other felony
26 by an employee. All investigations conducted by the Inspector

1 General shall be conducted in a manner designed to ensure the
2 preservation of evidence for possible use in a criminal
3 prosecution.

4 (m) Investigative reports. Upon completion of an
5 investigation, the Office of Inspector General shall issue an
6 investigative report identifying whether the allegations are
7 substantiated, unsubstantiated, or unfounded. Within 10
8 business days after the transmittal of a completed
9 investigative report substantiating an allegation, or if a
10 recommendation is made, the Inspector General shall provide the
11 investigative report on the case to the Secretary and to the
12 director of the facility or agency where any one or more of the
13 following occurred: mental abuse, physical abuse, sexual
14 abuse, neglect, egregious neglect, or financial exploitation.
15 In a substantiated case, the investigative report shall include
16 any mitigating or aggravating circumstances that were
17 identified during the investigation. If the case involves
18 substantiated neglect, the investigative report shall also
19 state whether egregious neglect was found. An investigative
20 report may also set forth recommendations. All investigative
21 reports prepared by the Office of the Inspector General shall
22 be considered confidential and shall not be released except as
23 provided by the law of this State or as required under
24 applicable federal law. Unsubstantiated and unfounded reports
25 shall not be disclosed except as allowed under Section 6 of the
26 Abused and Neglected Long Term Care Facility Residents

1 Reporting Act. Raw data used to compile the investigative
2 report shall not be subject to release unless required by law
3 or a court order. "Raw data used to compile the investigative
4 report" includes, but is not limited to, any one or more of the
5 following: the initial complaint, witness statements,
6 photographs, investigator's notes, police reports, or incident
7 reports. If the allegations are substantiated, the accused
8 shall be provided with a redacted copy of the investigative
9 report. Death reports where there was no allegation of abuse or
10 neglect shall only be released pursuant to applicable State or
11 federal law or a valid court order.

12 (n) Written responses and reconsideration requests.

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

25 (2) Reconsideration requests. The facility, agency,
26 victim or guardian, or the subject employee may request

1 that the Office of Inspector General reconsider or clarify
2 its finding based upon additional information.

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

11 (p) Secretary review. Upon review of the Inspector
12 General's investigative report and any agency's or facility's
13 written response, the Secretary shall accept or reject the
14 written response and notify the Inspector General of that
15 determination. The Secretary may further direct that other
16 administrative action be taken, including, but not limited to,
17 any one or more of the following: (i) additional site visits,
18 (ii) training, (iii) provision of technical assistance
19 relative to administrative needs, licensure or certification,
20 or (iv) the imposition of appropriate sanctions.

21 (q) Action by facility or agency. Within 30 days of the
22 date the Secretary approves the written response or directs
23 that further administrative action be taken, the facility or
24 agency shall provide an implementation report to the Inspector
25 General that provides the status of the action taken. The
26 facility or agency shall be allowed an additional 30 days to

1 send notice of completion of the action or to send an updated
2 implementation report. If the action has not been completed
3 within the additional 30 day period, the facility or agency
4 shall send updated implementation reports every 60 days until
5 completion. The Inspector General shall conduct a review of any
6 implementation plan that takes more than 120 days after
7 approval to complete, and shall monitor compliance through a
8 random review of approved written responses, which may include,
9 but are not limited to: (i) site visits, (ii) telephone
10 contact, and (iii) requests for additional documentation
11 evidencing compliance.

12 (r) Sanctions. Sanctions, if imposed by the Secretary under
13 Subdivision (p)(iv) of this Section, shall be designed to
14 prevent further acts of mental abuse, physical abuse, sexual
15 abuse, neglect, egregious neglect, or financial exploitation
16 or some combination of one or more of those acts at a facility
17 or agency, and may include any one or more of the following:

18 (1) Appointment of on-site monitors.

19 (2) Transfer or relocation of an individual or
20 individuals.

21 (3) Closure of units.

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

23 (i) Department licensing, (ii) funding, ~~or~~ (iii)
24 certification.

25 The Inspector General may seek the assistance of the
26 Illinois Attorney General or the office of any State's Attorney

1 in implementing sanctions.

2 (s) Health care worker registry.

3 (1) Reporting to the registry. The Inspector General
4 shall report to the Department of Public Health's health
5 care worker registry, a public registry, the identity and
6 finding of each employee of a facility or agency against
7 whom there is a final investigative report containing a
8 substantiated allegation of physical or sexual abuse or
9 egregious neglect of an individual.

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

1 Act or under any other federal labor statute.

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

18 (4) Testimony at registry hearings. A person who makes
19 a report or who investigates a report under this Act shall
20 testify fully in any judicial proceeding resulting from
21 such a report, as to any evidence of abuse or neglect, or
22 the cause thereof. No evidence shall be excluded by reason
23 of any common law or statutory privilege relating to
24 communications between the alleged perpetrator of abuse or
25 neglect, or the individual alleged as the victim in the
26 report, and the person making or investigating the report.

1 Testimony at hearings is exempt from the confidentiality
2 requirements of subsection (f) of Section 10 of the Mental
3 Health and Developmental 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 is overturned
16 through an action filed with the Illinois Civil Service
17 Commission or under any applicable collective bargaining
18 agreement and if that employee's name has already been sent
19 to the registry, the employee's name shall be removed from
20 the registry.

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

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

8 (t) Review of Administrative Decisions. The Department
9 shall preserve a record of all proceedings at any formal
10 hearing conducted by the Department involving health care
11 worker registry hearings. Final administrative decisions of
12 the Department are subject to judicial review pursuant to
13 provisions of the Administrative Review Law.

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

25 Members appointed by the Governor shall be qualified by
26 professional knowledge or experience in the area of law,

1 investigatory techniques, or in the area of care of the
2 mentally ill or developmentally disabled. Two members
3 appointed by the Governor shall be persons with a disability or
4 a parent of a person with a disability. Members shall serve
5 without compensation, but shall be reimbursed for expenses
6 incurred in connection with the performance of their duties as
7 members.

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

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

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

22 (2) Review existing regulations relating to the
23 operation of facilities.

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

26 (4) Recommend policies concerning methods for

1 improving the intergovernmental relationships between the
2 Office of the Inspector General and other State or federal
3 offices.

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

22 (w) Program audit. The Auditor General shall conduct a
23 program audit of the Office of the Inspector General on an
24 as-needed basis, as determined by the Auditor General. The
25 audit shall specifically include the Inspector General's
26 compliance with the Act and effectiveness in investigating

1 reports of allegations occurring in any facility or agency. The
2 Auditor General shall conduct the program audit according to
3 the provisions of the Illinois State Auditing Act and shall
4 report its findings to the General Assembly no later than
5 January 1 following the audit period.

6 (x) Nothing in this Section shall be construed to mean that
7 a patient is a victim of abuse or neglect because of health
8 care services appropriately provided or not provided by health
9 care professionals.

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

20 (Source: P.A. 95-545, eff. 8-28-07; 96-407, eff. 8-13-09;
21 96-555, eff. 8-18-09; revised 9-25-09.)

22 (Text of Section after amendment by P.A. 96-339)

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5 incident involving any of the following conduct by an employee,
6 facility, or agency against an individual or individuals:
7 mental abuse, physical abuse, sexual abuse, neglect, or
8 financial exploitation.

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

10 "Deflection" means a situation in which an individual is
11 presented for admission to a facility or agency, and the
12 facility staff or agency staff do not admit the individual.
13 "Deflection" includes triage, redirection, and denial of
14 admission.

15 "Department" means the Department of Human Services.

16 "Developmentally disabled" means having a developmental
17 disability.

18 "Developmental disability" means "developmental
19 disability" as defined in the Mental Health and Developmental
20 Disabilities Code.

21 "Egregious neglect" means a finding of neglect as
22 determined by the Inspector General that (i) represents a gross
23 failure to adequately provide for, or a callused indifference
24 to, the health, safety, or medical needs of an individual and
25 (ii) results in an individual's death or other serious
26 deterioration of an individual's physical condition or mental

1 condition.

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

11 "Facility" or "State-operated facility" means a mental
12 health facility or developmental disabilities facility
13 operated by the Department or certified or licensed by any
14 other State agency.

15 "Financial exploitation" means taking unjust advantage of
16 an individual's assets, property, or financial resources
17 through deception, intimidation, or conversion for the
18 employee's, facility's, or agency's own advantage or benefit.

19 "Finding" means the Office of Inspector General's
20 determination regarding whether an allegation is
21 substantiated, unsubstantiated, or unfounded.

22 "Health care worker registry" or "registry" means the
23 health care worker registry created by the Nursing Home Care
24 Act.

25 "Individual" means any person receiving mental health
26 service, developmental disabilities service, or both from a

1 facility or agency, while either on-site or off-site.

2 "Mental abuse" means the use of demeaning, intimidating, or
3 threatening words, signs, gestures, or other actions by an
4 employee about an individual and in the presence of an
5 individual or individuals that results in emotional distress or
6 maladaptive behavior, or could have resulted in emotional
7 distress or maladaptive behavior, for any individual present.

8 "Mental illness" means "mental illness" as defined in the
9 Mental Health and Developmental Disabilities Code.

10 "Mentally ill" means having a mental illness.

11 "Mitigating circumstance" means a condition that (i) is
12 attendant to a finding, (ii) does not excuse or justify the
13 conduct in question, but (iii) may be considered in evaluating
14 the severity of the conduct, the culpability of the accused, or
15 both the severity of the conduct and the culpability of the
16 accused.

17 "Neglect" means an employee's, agency's, or facility's
18 failure to provide adequate medical care, personal care, or
19 maintenance and that, as a consequence, (i) causes an
20 individual pain, injury, or emotional distress, (ii) results in
21 either an individual's maladaptive behavior or the
22 deterioration of an individual's physical condition or mental
23 condition, or (iii) places the individual's health or safety at
24 substantial risk.

25 "Physical abuse" means an employee's non-accidental and
26 inappropriate contact with an individual that causes bodily

1 harm. "Physical abuse" includes actions that cause bodily harm
2 as a result of an employee directing an individual or person to
3 physically abuse another individual.

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

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.

20 "Substantiated" means there is a preponderance of the
21 evidence to support the allegation.

22 "Unfounded" means there is no credible evidence to support
23 the allegation.

24 "Unsubstantiated" means there is credible evidence, but
25 less than a preponderance of evidence to support the
26 allegation.

1 (c) Appointment. The Governor shall appoint, and the Senate
2 shall confirm, an Inspector General. The Inspector General
3 shall be appointed for a term of 4 years and shall function
4 within the Department of Human Services and report to the
5 Secretary and the Governor.

6 (d) Operation and appropriation. The Inspector General
7 shall function independently within the Department with
8 respect to the operations of the Office, including the
9 performance of investigations and issuance of findings and
10 recommendations. The appropriation for the Office of Inspector
11 General shall be separate from the overall appropriation for
12 the Department.

13 (e) Powers and duties. The Inspector General shall
14 investigate reports of suspected mental abuse, physical abuse,
15 sexual abuse, neglect, or financial exploitation of
16 individuals in any mental health or developmental disabilities
17 facility or agency and shall have authority to take immediate
18 action to prevent any one or more of the following from
19 happening to individuals under its jurisdiction: mental abuse,
20 physical abuse, sexual abuse, neglect, or financial
21 exploitation. Investigations shall be commenced no later than
22 24 hours after the report is received by the Inspector General.
23 Upon written request of an agency of this State, the Inspector
24 General may assist another agency of the State in investigating
25 reports of the abuse, neglect, or abuse and neglect of persons
26 with mental illness, persons with developmental disabilities,

1 or persons with both. To comply with the requirements of
2 subsection (k) of this Section, the Inspector General shall
3 also review all reportable deaths for which there is no
4 allegation of abuse or neglect. Nothing in this Section shall
5 preempt any duties of the Medical Review Board set forth in the
6 Mental Health and Developmental Disabilities Code. The
7 Inspector General shall have no authority to investigate
8 alleged violations of the State Officials and Employees Ethics
9 Act. Allegations of misconduct under the State Officials and
10 Employees Ethics Act shall be referred to the Office of the
11 Governor's Executive Inspector General for investigation.

12 (f) Limitations. ~~The Inspector General shall not conduct an~~
13 ~~investigation within an agency or facility if that~~
14 ~~investigation would be redundant to or interfere with an~~
15 ~~investigation conducted by another State agency.~~ The Inspector
16 General shall have no supervision over, or involvement in, the
17 routine programmatic, licensing, funding, or certification
18 operations of the Department, or the functions of any other
19 State agency. Nothing in this subsection limits investigations
20 by the Department that may otherwise be required by law or that
21 may be necessary in the Department's capacity as central
22 administrative authority responsible for the operation of the
23 State's mental health and developmental disabilities
24 facilities.

25 (g) Rulemaking authority. The Inspector General shall
26 promulgate rules establishing minimum requirements for

1 reporting allegations as well as for initiating, conducting,
2 and completing investigations ~~based upon the nature of the~~
3 ~~allegation or allegations. The rules shall clearly establish~~
4 ~~that if 2 or more State agencies could investigate an~~
5 ~~allegation, the Inspector General shall not conduct an~~
6 ~~investigation that would be redundant to, or interfere with, an~~
7 ~~investigation conducted by another State agency.~~ The rules
8 shall further clarify the method and circumstances under which
9 the Office of Inspector General may interact with the
10 licensing, funding, or certification units of the Department in
11 preventing further occurrences of mental abuse, physical
12 abuse, sexual abuse, neglect, egregious neglect, and financial
13 exploitation.

14 (h) Training programs. The Inspector General shall (i)
15 establish a comprehensive program to ensure that every person
16 authorized to conduct investigations receives ongoing training
17 relative to investigation techniques, communication skills,
18 and the appropriate means of interacting with persons receiving
19 treatment for mental illness, developmental disability, or
20 both mental illness and developmental disability, and (ii)
21 establish and conduct periodic training programs for facility
22 and agency employees concerning the prevention and reporting of
23 any one or more of the following: mental abuse, physical abuse,
24 sexual abuse, neglect, egregious neglect, or financial
25 exploitation. Nothing in this Section shall be deemed to
26 prevent the Office of Inspector General from conducting any

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

3 (i) Duty to cooperate.

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

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

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

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

20 (k) Reporting allegations and deaths.

21 (1) Allegations. If an employee witnesses, is told of,
22 or has reason to believe an incident of mental abuse,
23 physical abuse, sexual abuse, neglect, or financial
24 exploitation has occurred, the employee, agency, or
25 facility shall report the allegation by phone to the Office
26 of the Inspector General hotline according to the agency's

1 or facility's procedures, but in no event later than 4
2 hours after the initial discovery of the incident,
3 allegation, or suspicion of any one or more of the
4 following: mental abuse, physical abuse, sexual abuse,
5 neglect, or financial exploitation. A required reporter as
6 defined in subsection (b) of this Section who knowingly or
7 intentionally fails to comply with these reporting
8 requirements is guilty of a Class A misdemeanor.

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

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

16 (ii) Any death of an individual occurring within 24
17 hours after deflection from a residential program or
18 facility.

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

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

26 (1) Reporting criminal acts. Within 24 hours after

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

13 (m) Investigative reports. Upon completion of an
14 investigation, the Office of Inspector General shall issue an
15 investigative report identifying whether the allegations are
16 substantiated, unsubstantiated, or unfounded. Within 10
17 business days after the transmittal of a completed
18 investigative report substantiating an allegation, or if a
19 recommendation is made, the Inspector General shall provide the
20 investigative report on the case to the Secretary and to the
21 director of the facility or agency where any one or more of the
22 following occurred: mental abuse, physical abuse, sexual
23 abuse, neglect, egregious neglect, or financial exploitation.
24 In a substantiated case, the investigative report shall include
25 any mitigating or aggravating circumstances that were
26 identified during the investigation. If the case involves

1 substantiated neglect, the investigative report shall also
2 state whether egregious neglect was found. An investigative
3 report may also set forth recommendations. All investigative
4 reports prepared by the Office of the Inspector General shall
5 be considered confidential and shall not be released except as
6 provided by the law of this State or as required under
7 applicable federal law. Unsubstantiated and unfounded reports
8 shall not be disclosed except as allowed under Section 6 of the
9 Abused and Neglected Long Term Care Facility Residents
10 Reporting Act. Raw data used to compile the investigative
11 report shall not be subject to release unless required by law
12 or a court order. "Raw data used to compile the investigative
13 report" includes, but is not limited to, any one or more of the
14 following: the initial complaint, witness statements,
15 photographs, investigator's notes, police reports, or incident
16 reports. If the allegations are substantiated, the accused
17 shall be provided with a redacted copy of the investigative
18 report. Death reports where there was no allegation of abuse or
19 neglect shall only be released pursuant to applicable State or
20 federal law or a valid court order.

21 (n) Written responses and reconsideration requests.

22 (1) Written responses. Within 30 calendar days from
23 receipt of a substantiated investigative report or an
24 investigative report which contains recommendations,
25 absent a reconsideration request, the facility or agency
26 shall file a written response that addresses, in a concise

1 and reasoned manner, the actions taken to: (i) protect the
2 individual; (ii) prevent recurrences; and (iii) eliminate
3 the problems identified. The response shall include the
4 implementation and completion dates of such actions. If the
5 written response is not filed within the allotted 30
6 calendar day period, the Secretary shall determine the
7 appropriate corrective action to be taken.

8 (2) Reconsideration requests. The facility, agency,
9 victim or guardian, or the subject employee may request
10 that the Office of Inspector General reconsider or clarify
11 its finding based upon additional information.

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

22 (p) Secretary review. Upon review of the Inspector
23 General's investigative report and any agency's or facility's
24 written response, the Secretary shall accept or reject the
25 written response and notify the Inspector General of that
26 determination. The Secretary may further direct that other

1 administrative action be taken, including, but not limited to,
2 any one or more of the following: (i) additional site visits,
3 (ii) training, (iii) provision of technical assistance
4 relative to administrative needs, licensure or certification,
5 or (iv) the imposition of appropriate sanctions.

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

24 (r) Sanctions. Sanctions, if imposed by the Secretary under
25 Subdivision (p)(iv) of this Section, shall be designed to
26 prevent further acts of mental abuse, physical abuse, sexual

1 abuse, neglect, egregious neglect, or financial exploitation
2 or some combination of one or more of those acts at a facility
3 or agency, and may include any one or more of the following:

4 (1) Appointment of on-site monitors.

5 (2) Transfer or relocation of an individual or
6 individuals.

7 (3) Closure of units.

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

9 (i) Department licensing, (ii) funding, ~~or~~ (iii)
10 certification, or (iv) licensing enforcement by the
11 licensing entity of the facility, if any, up to and
12 including revocation of licensure or an administrative
13 order of closure, or both.

14 The Inspector General may seek the assistance of the
15 Illinois Attorney General or the office of any State's Attorney
16 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, ~~MR/DD Community~~
21 ~~Care Act~~ the identity and finding of each employee of a
22 facility or agency against whom there is a final
23 investigative report containing a substantiated allegation
24 of physical or sexual abuse or egregious neglect of an
25 individual. ~~MR/DD Community Care Act~~

26 (2) Notice to employee. Prior to reporting the name of

1 an employee, the employee shall be notified of the
2 Department's obligation to report and shall be granted an
3 opportunity to request an administrative hearing, the sole
4 purpose of which is to determine if the substantiated
5 finding warrants reporting to the registry. Notice to the
6 employee shall contain a clear and concise statement of the
7 grounds on which the report to the registry is based, offer
8 the employee an opportunity for a hearing, and identify the
9 process for requesting such a hearing. Notice is sufficient
10 if provided by certified mail to the employee's last known
11 address. If the employee fails to request a hearing within
12 30 days from the date of the notice, the Inspector General
13 shall report the name of the employee to the registry.
14 Nothing in this subdivision (s) (2) shall diminish or impair
15 the rights of a person who is a member of a collective
16 bargaining unit under the Illinois Public Labor Relations
17 Act or under any other 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 to
21 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 abuse or neglect, or
12 the cause thereof. No evidence shall be excluded by reason
13 of any common law or statutory privilege relating to
14 communications between the alleged perpetrator of abuse or
15 neglect, or the individual alleged as the victim in the
16 report, and the person making or investigating the report.
17 Testimony at hearings is exempt from the confidentiality
18 requirements of subsection (f) of Section 10 of the Mental
19 Health and Developmental Disabilities Confidentiality Act.

20 (5) Employee's rights to collateral action. No
21 reporting to the registry shall occur and no hearing shall
22 be set or proceed if an employee notifies the Inspector
23 General in writing, including any supporting
24 documentation, that he or she is formally contesting an
25 adverse employment action resulting from a substantiated
26 finding by complaint filed with the Illinois Civil Service

1 Commission, or which otherwise seeks to enforce the
2 employee's rights pursuant to any applicable collective
3 bargaining agreement. If an action taken by an employer
4 against an employee as a result of a finding of physical
5 abuse, sexual abuse, or egregious neglect is overturned
6 through an action filed with the Illinois Civil Service
7 Commission or under any applicable collective bargaining
8 agreement and if that employee's name has already been sent
9 to the registry, the employee's name shall be removed from
10 the registry.

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

24 (t) Review of Administrative Decisions. The Department
25 shall preserve a record of all proceedings at any formal
26 hearing conducted by the Department involving health care

1 worker registry hearings. Final administrative decisions of
2 the Department are subject to judicial review pursuant to
3 provisions of the Administrative Review Law.

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

15 Members appointed by the Governor shall be qualified by
16 professional knowledge or experience in the area of law,
17 investigatory techniques, or in the area of care of the
18 mentally ill or developmentally disabled. Two members
19 appointed by the Governor shall be persons with a disability or
20 a parent of a person with a disability. Members shall serve
21 without compensation, but shall be reimbursed for expenses
22 incurred in connection with the performance of their duties as
23 members.

24 The Board shall meet quarterly, and may hold other meetings
25 on the call of the chairman. Four members shall constitute a
26 quorum allowing the Board to conduct its business. The Board

1 may adopt rules and regulations it deems necessary to govern
2 its own procedures.

3 The Board shall monitor and oversee the operations,
4 policies, and procedures of the Inspector General to ensure the
5 prompt and thorough investigation of allegations of neglect and
6 abuse. In fulfilling these responsibilities, the Board may do
7 the following:

8 (1) Provide independent, expert consultation to the
9 Inspector General on policies and protocols for
10 investigations of alleged abuse, neglect, or both abuse and
11 neglect.

12 (2) Review existing regulations relating to the
13 operation of facilities.

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

16 (4) Recommend policies concerning methods for
17 improving the intergovernmental relationships between the
18 Office of the Inspector General and other State or federal
19 offices.

20 (v) Annual report. The Inspector General shall provide to
21 the General Assembly and the Governor, no later than January 1
22 of each year, a summary of reports and investigations made
23 under this Act for the prior fiscal year with respect to
24 individuals receiving mental health or developmental
25 disabilities services. The report shall detail the imposition
26 of sanctions, if any, and the final disposition of any

1 corrective or administrative action directed by the Secretary.
2 The summaries shall not contain any confidential or identifying
3 information of any individual, but shall include objective data
4 identifying any trends in the number of reported allegations,
5 the timeliness of the Office of the Inspector General's
6 investigations, and their disposition, for each facility and
7 Department-wide, for the most recent 3-year time period. The
8 report shall also identify, by facility, the staff-to-patient
9 ratios taking account of direct care staff only. The report
10 shall also include detailed recommended administrative actions
11 and matters for consideration by the General Assembly.

12 (w) Program audit. The Auditor General shall conduct a
13 program audit of the Office of the Inspector General on an
14 as-needed basis, as determined by the Auditor General. The
15 audit shall specifically include the Inspector General's
16 compliance with the Act and effectiveness in investigating
17 reports of allegations occurring in any facility or agency. The
18 Auditor General shall conduct the program audit according to
19 the provisions of the Illinois State Auditing Act and shall
20 report its findings to the General Assembly no later than
21 January 1 following the audit period.

22 (x) Nothing in this Section shall be construed to mean that
23 a patient is a victim of abuse or neglect because of health
24 care services appropriately provided or not provided by health
25 care professionals.

26 (y) Nothing in this Section shall require a facility,

1 including its employees, agents, medical staff members, and
2 health care professionals, to provide a service to a patient in
3 contravention of that patient's stated or implied objection to
4 the provision of that service on the ground that that service
5 conflicts with the patient's religious beliefs or practices,
6 nor shall the failure to provide a service to a patient be
7 considered abuse under this Section if the patient has objected
8 to the provision of that service based on his or her religious
9 beliefs or practices.

10 (Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10;
11 96-407, eff. 8-13-09; 96-555, eff. 8-18-09; revised 9-25-09.)

12 Section 10. The Abuse of Adults with Disabilities
13 Intervention Act is amended by changing Section 35 as follows:

14 (20 ILCS 2435/35) (from Ch. 23, par. 3395-35)

15 Sec. 35. Assessment of reports.

16 (a) The Adults with Disabilities Abuse Project shall, upon
17 receiving a report of alleged or suspected abuse, neglect, or
18 exploitation obtain the consent of the subject of the report to
19 conduct an assessment with respect to the report. The
20 assessment shall include, but not be limited to, a face-to-face
21 interview with the adult with disabilities who is the subject
22 of the report and may include a visit to the residence of the
23 adult with disabilities, and interviews or consultations with
24 service agencies or individuals who may have knowledge of the

1 circumstances of the adult with disabilities. A determination
2 shall be made whether each report is substantiated. If the
3 Office of Inspector General determines that there is clear and
4 substantial risk of death or great bodily harm, it shall
5 immediately secure or provide emergency protective services
6 for purposes of preventing further abuse, neglect, or
7 exploitation, and for safeguarding the welfare of the person.
8 Such services must be provided in the least restrictive
9 environment commensurate with the adult with disabilities'
10 needs.

11 (a-1) The Adults with Disabilities Abuse Project shall,
12 upon receiving a report of alleged or suspected abuse, neglect,
13 or financial exploitation, initiate the investigation within
14 24 hours of receiving the report.

15 (a-5) The Adults with Disabilities Abuse Project shall
16 initiate an assessment of all reports of alleged or suspected
17 abuse or neglect within 7 days after receipt of the report,
18 except reports of abuse or neglect that indicate that the life
19 or safety of an adult with disabilities is in imminent danger
20 shall be assessed within 24 hours after receipt of the report.
21 Reports of exploitation shall be assessed within 30 days after
22 the receipt of the report.

23 (b) (Blank).

24 (c) The Department shall effect written interagency
25 agreements with other State departments and any other public
26 and private agencies to coordinate and cooperate in the

1 handling of substantiated cases; to accept and manage
2 substantiated cases on a priority basis; and to waive
3 eligibility requirements for the adult with disabilities in an
4 emergency.

5 (d) Every effort shall be made by the Adults with
6 Disabilities Abuse Project to coordinate and cooperate with
7 public and private agencies to ensure the provision of services
8 necessary to eliminate further abuse, neglect, and
9 exploitation of the adult with disabilities who is the subject
10 of the report.

11 The Office of Inspector General shall promulgate rules and
12 regulations to ensure the effective implementation of the
13 Adults with Disabilities Abuse Project statewide.

14 (e) When the Adults with Disabilities Abuse Project
15 determines that a case is substantiated, it shall refer the
16 case to the appropriate office within the Department of Human
17 Services to develop, with the consent of and in consultation
18 with the adult with disabilities, a service plan for the adult
19 with disabilities.

20 (f) The Adults with Disabilities Abuse Project shall refer
21 reports of alleged or suspected abuse, neglect, or exploitation
22 to another State agency when that agency has a statutory
23 obligation to investigate such reports.

24 (g) If the Adults with Disabilities Abuse Project has
25 reason to believe that a crime has been committed, the incident
26 shall be reported to the appropriate law enforcement agency.

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

2 Section 15. The Abused and Neglected Child Reporting Act is
3 amended by adding Section 4.4a as follows:

4 (325 ILCS 5/4.4a new)

5 Sec. 4.4a. DCFS duty to report to DHS' Office of Inspector
6 General. Whenever the Department receives, by means of its
7 statewide toll-free telephone number established under Section
8 7.6 for the purpose of reporting suspected child abuse or
9 neglect or by any other means or from any mandated reporter
10 under Section 4, a report of suspected abuse, neglect, or
11 financial exploitation of a disabled adult person between the
12 ages of 18 and 59, the Department shall instruct the reporter
13 to contact the Department of Human Services' Office of the
14 Inspector General and shall provide the reporter with the
15 statewide, 24-hour toll-free telephone number established and
16 maintained by the Department of Human Services' Office of the
17 Inspector General.

18 Section 95. No acceleration or delay. Where this Act makes
19 changes in a statute that is represented in this Act by text
20 that is not yet or no longer in effect (for example, a Section
21 represented by multiple versions), the use of that text does
22 not accelerate or delay the taking effect of (i) the changes
23 made by this Act or (ii) provisions derived from any other

1 Public Act.".