

SB2879



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2879

Introduced 2/14/2018, by Sen. John F. Curran

SYNOPSIS AS INTRODUCED:

20 ILCS 1305/1-17

Amends the Department of Human Services Act. In a provision concerning investigative reports issued by the Office of the Inspector General upon completion of an abuse or neglect investigation, provides that the victim and the victim's guardian shall be provided with a redacted copy of the investigative report if the allegations of abuse or neglect are substantiated. Provides that unredacted investigative reports, as well as raw data, may be shared with a local law enforcement entity, a State's Attorney's office, or a county coroner's office upon written request. Effective immediately.

LRB100 16240 KTG 31363 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

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

6 (20 ILCS 1305/1-17)

7 Sec. 1-17. Inspector General.

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

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

23 "Adult student with a disability" means an adult student,

1 age 18 through 21, inclusive, with an Individual Education
2 Program, other than a resident of a facility licensed by the
3 Department of Children and Family Services in accordance with
4 the Child Care Act of 1969. For purposes of this definition,
5 "through age 21, inclusive", means through the day before the
6 student's 22nd birthday.

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

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

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

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

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

1 "Deflection" includes triage, redirection, and denial of
2 admission.

3 "Department" means the Department of Human Services.

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

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

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

23 "Facility" or "State-operated facility" means a mental
24 health facility or developmental disabilities facility
25 operated by the Department.

26 "Financial exploitation" means taking unjust advantage of

1 an individual's assets, property, or financial resources
2 through deception, intimidation, or conversion for the
3 employee's, facility's, or agency's own advantage or benefit.

4 "Finding" means the Office of Inspector General's
5 determination regarding whether an allegation is
6 substantiated, unsubstantiated, or unfounded.

7 "Health Care Worker Registry" or "Registry" means the
8 Health Care Worker Registry under the Health Care Worker
9 Background Check Act.

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

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

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

21 "Mentally ill" means having a mental illness.

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

1 accused.

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

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

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

17 "Recommendation" means an admonition, separate from a
18 finding, that requires action by the facility, agency, or
19 Department to correct a systemic issue, problem, or deficiency
20 identified during an investigation.

21 "Required reporter" means any employee who suspects,
22 witnesses, or is informed of an allegation of any one or more
23 of the following: mental abuse, physical abuse, sexual abuse,
24 neglect, or financial exploitation.

25 "Secretary" means the Chief Administrative Officer of the
26 Department.

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

14 "Sexually explicit images" includes, but is not limited to,
15 any material which depicts nudity, sexual conduct, or
16 sado-masochistic abuse, or which contains explicit and
17 detailed verbal descriptions or narrative accounts of sexual
18 excitement, sexual conduct, or sado-masochistic abuse.

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

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

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

26 (c) Appointment. The Governor shall appoint, and the Senate

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

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

12 (e) Powers and duties. The Inspector General shall
13 investigate reports of suspected mental abuse, physical abuse,
14 sexual abuse, neglect, or financial exploitation of
15 individuals in any mental health or developmental disabilities
16 facility or agency and shall have authority to take immediate
17 action to prevent any one or more of the following from
18 happening to individuals under its jurisdiction: mental abuse,
19 physical abuse, sexual abuse, neglect, or financial
20 exploitation. Upon written request of an agency of this State,
21 the Inspector General may assist another agency of the State in
22 investigating reports of the abuse, neglect, or abuse and
23 neglect of persons with mental illness, persons with
24 developmental disabilities, or persons with both. To comply
25 with the requirements of subsection (k) of this Section, the
26 Inspector General shall also review all reportable deaths for

1 which there is no allegation of abuse or neglect. Nothing in
2 this Section shall preempt any duties of the Medical Review
3 Board set forth in the Mental Health and Developmental
4 Disabilities Code. The Inspector General shall have no
5 authority to investigate alleged violations of the State
6 Officials and Employees Ethics Act. Allegations of misconduct
7 under the State Officials and Employees Ethics Act shall be
8 referred to the Office of the Governor's Executive Inspector
9 General for investigation.

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

22 (g) Rulemaking authority. The Inspector General shall
23 promulgate rules establishing minimum requirements for
24 reporting allegations as well as for initiating, conducting,
25 and completing investigations based upon the nature of the
26 allegation or allegations. The rules shall clearly establish

1 that if 2 or more State agencies could investigate an
2 allegation, the Inspector General shall not conduct an
3 investigation that would be redundant to, or interfere with, an
4 investigation conducted by another State agency. The rules
5 shall further clarify the method and circumstances under which
6 the Office of Inspector General may interact with the
7 licensing, funding, or certification units of the Department in
8 preventing further occurrences of mental abuse, physical
9 abuse, sexual abuse, neglect, egregious neglect, and financial
10 exploitation.

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

26 (i) Duty to cooperate.

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

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

1 unannounced site visit or written response compliance
2 check, fails to cooperate with requests from the Office of
3 the Inspector General is in violation of this Act.

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

17 (k) Reporting allegations and deaths.

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

1 following: mental abuse, physical abuse, sexual abuse,
2 neglect, or financial exploitation. A required reporter as
3 defined in subsection (b) of this Section who knowingly or
4 intentionally fails to comply with these reporting
5 requirements is guilty of a Class A misdemeanor.

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

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

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

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

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

23 (1) Reporting to law enforcement.

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

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

11 (2) Reporting allegations of adult students with
12 disabilities. Upon receipt of a reportable allegation
13 regarding an adult student with a disability, the
14 Department's Office of the Inspector General shall
15 determine whether the allegation meets the criteria for the
16 Domestic Abuse Program under the Abuse of Adults with
17 Disabilities Intervention Act. If the allegation is
18 reportable to that program, the Office of the Inspector
19 General shall initiate an investigation. If the allegation
20 is not reportable to the Domestic Abuse Program, the Office
21 of the Inspector General shall make an expeditious referral
22 to the respective law enforcement entity. If the alleged
23 victim is already receiving services from the Department,
24 the Office of the Inspector General shall also make a
25 referral to the respective Department of Human Services'
26 Division or Bureau.

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

1 Neglected Long Term Care Facility Residents Reporting Act. Raw
2 data used to compile the investigative report shall not be
3 subject to release unless required by law or a court order.
4 "Raw data used to compile the investigative report" includes,
5 but is not limited to, any one or more of the following: the
6 initial complaint, witness statements, photographs,
7 investigator's notes, police reports, or incident reports. If
8 the allegations are substantiated, the victim, the victim's
9 guardian, and the accused shall be provided with a redacted
10 copy of the investigative report. Death reports where there was
11 no allegation of abuse or neglect shall only be released
12 pursuant to applicable State or federal law or a valid court
13 order. Unredacted investigative reports, as well as raw data,
14 may be shared with a local law enforcement entity, a State's
15 Attorney's office, or a county coroner's office upon written
16 request.

17 (n) Written responses and reconsideration requests.

18 (1) Written responses. Within 30 calendar days from
19 receipt of a substantiated investigative report or an
20 investigative report which contains recommendations,
21 absent a reconsideration request, the facility or agency
22 shall file a written response that addresses, in a concise
23 and reasoned manner, the actions taken to: (i) protect the
24 individual; (ii) prevent recurrences; and (iii) eliminate
25 the problems identified. The response shall include the
26 implementation and completion dates of such actions. If the

1 written response is not filed within the allotted 30
2 calendar day period, the Secretary shall determine the
3 appropriate corrective action to be taken.

4 (2) Reconsideration requests. The facility, agency,
5 victim or guardian, or the subject employee may request
6 that the Office of Inspector General reconsider or clarify
7 its finding based upon additional information.

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

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

26 (q) Action by facility or agency. Within 30 days of the

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

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

23 (1) Appointment of on-site monitors.

24 (2) Transfer or relocation of an individual or
25 individuals.

26 (3) Closure of units.

1 (4) Termination of any one or more of the following:
2 (i) Department licensing, (ii) funding, or (iii)
3 certification.

4 The Inspector General may seek the assistance of the
5 Illinois Attorney General or the office of any State's Attorney
6 in implementing sanctions.

7 (s) Health Care Worker Registry.

8 (1) Reporting to the Registry. The Inspector General
9 shall report to the Department of Public Health's Health
10 Care Worker Registry, a public registry, the identity and
11 finding of each employee of a facility or agency against
12 whom there is a final investigative report containing a
13 substantiated allegation of physical or sexual abuse,
14 financial exploitation, or egregious neglect of an
15 individual.

16 (2) Notice to employee. Prior to reporting the name of
17 an employee, the employee shall be notified of the
18 Department's obligation to report and shall be granted an
19 opportunity to request an administrative hearing, the sole
20 purpose of which is to determine if the substantiated
21 finding warrants reporting to the Registry. Notice to the
22 employee shall contain a clear and concise statement of the
23 grounds on which the report to the Registry is based, offer
24 the employee an opportunity for a hearing, and identify the
25 process for requesting such a hearing. Notice is sufficient
26 if provided by certified mail to the employee's last known

1 address. If the employee fails to request a hearing within
2 30 days from the date of the notice, the Inspector General
3 shall report the name of the employee to the Registry.
4 Nothing in this subdivision (s) (2) shall diminish or impair
5 the rights of a person who is a member of a collective
6 bargaining unit under the Illinois Public Labor Relations
7 Act or under any other federal labor statute.

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

24 (4) Testimony at Registry hearings. A person who makes
25 a report or who investigates a report under this Act shall
26 testify fully in any judicial proceeding resulting from

1 such a report, as to any evidence of abuse or neglect, or
2 the cause thereof. No evidence shall be excluded by reason
3 of any common law or statutory privilege relating to
4 communications between the alleged perpetrator of abuse or
5 neglect, or the individual alleged as the victim in the
6 report, and the person making or investigating the report.
7 Testimony at hearings is exempt from the confidentiality
8 requirements of subsection (f) of Section 10 of the Mental
9 Health and Developmental Disabilities Confidentiality Act.

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

1 (6) Removal from Registry. At any time after the report
2 to the Registry, but no more than once in any 12-month
3 period, an employee may petition the Department in writing
4 to remove his or her name from the Registry. Upon receiving
5 notice of such request, the Inspector General shall conduct
6 an investigation into the petition. Upon receipt of such
7 request, an administrative hearing will be set by the
8 Department. At the hearing, the employee shall bear the
9 burden of presenting evidence that establishes, by a
10 preponderance of the evidence, that removal of the name
11 from the Registry is in the public interest. The parties
12 may jointly request that the administrative law judge
13 consider a stipulated disposition of these proceedings.

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

20 (u) Quality Care Board. There is created, within the Office
21 of the Inspector General, a Quality Care Board to be composed
22 of 7 members appointed by the Governor with the advice and
23 consent of the Senate. One of the members shall be designated
24 as chairman by the Governor. Of the initial appointments made
25 by the Governor, 4 Board members shall each be appointed for a
26 term of 4 years and 3 members shall each be appointed for a

1 term of 2 years. Upon the expiration of each member's term, a
2 successor shall be appointed for a term of 4 years. In the case
3 of a vacancy in the office of any member, the Governor shall
4 appoint a successor for the remainder of the unexpired term.

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

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

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

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

1 neglect.

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

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

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

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

1 and matters for consideration by the General Assembly.

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

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

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

1 (Source: P.A. 99-143, eff. 7-27-15; 99-323, eff. 8-7-15;
2 99-642, eff. 7-28-16; 100-313, eff. 8-24-17; 100-432, eff.
3 8-25-17; revised 9-27-17.)

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