



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1581

Introduced 2/26/2021, by Sen. Robert F. Martwick

SYNOPSIS AS INTRODUCED:

5 ILCS 430/20-10
5 ILCS 430/25-10
5 ILCS 430/30-5
15 ILCS 305/14
20 ILCS 505/35.5
20 ILCS 1305/1-17
305 ILCS 5/12-13.1
605 ILCS 10/8.5

Amends the State Officials and Employees Ethics Act, the Secretary of State Act, the Children and Family Services Act, the Department of Human Services Act, the Illinois Public Aid Code, and the Toll Highway Act. In provisions concerning investigations conducted by each Executive Inspector General appointed by the Governor, the Attorney General, the Secretary of State, the Comptroller, and the Treasurer, requires each Executive Inspector General to notify the Department of State Police or other appropriate law enforcement authority within 24 hours after determining that there is reasonable suspicion to believe that a criminal act may have been committed or that special expertise may be required in an investigation. Provides that the Department of State Police shall investigate any report from an Executive Inspector General that indicates that a possible criminal act relating to bribery, the unlawful use or possession of a weapon, bodily injury or the immediate threat of bodily injury to another, a narcotics-related activity, a criminal sexual assault, or the death of another person has been committed by any officer or employee of, or vendor or other person doing business with a State agency within the jurisdiction of the reporting Executive Inspector General. Provides that all investigations conducted by an Executive Inspector General shall be conducted in a manner designed to ensure the preservation of evidence for possible use in a criminal prosecution. Imposes similar requirements on the Legislative Inspector General, the Auditor General Inspector General, and the Inspectors General for the Secretary of State, the Department of Children and Family Services, the Department of Human Services, the Department of Healthcare and Family Services, and the Illinois State Toll Highway Authority.

LRB102 11796 RJF 17131 b

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 State Officials and Employees Ethics Act is
5 amended by changing Sections 20-10, 25-10, and 30-5 as
6 follows:

7 (5 ILCS 430/20-10)

8 Sec. 20-10. Offices of Executive Inspectors General.

9 (a) Five independent Offices of the Executive Inspector
10 General are created, one each for the Governor, the Attorney
11 General, the Secretary of State, the Comptroller, and the
12 Treasurer. Each Office shall be under the direction and
13 supervision of an Executive Inspector General and shall be a
14 fully independent office with separate appropriations.

15 (b) The Governor, Attorney General, Secretary of State,
16 Comptroller, and Treasurer shall each appoint an Executive
17 Inspector General, without regard to political affiliation and
18 solely on the basis of integrity and demonstrated ability.
19 Appointments shall be made by and with the advice and consent
20 of the Senate by three-fifths of the elected members
21 concurring by record vote. Any nomination not acted upon by
22 the Senate within 60 session days of the receipt thereof shall
23 be deemed to have received the advice and consent of the

1 Senate. If, during a recess of the Senate, there is a vacancy
2 in an office of Executive Inspector General, the appointing
3 authority shall make a temporary appointment until the next
4 meeting of the Senate when the appointing authority shall make
5 a nomination to fill that office. No person rejected for an
6 office of Executive Inspector General shall, except by the
7 Senate's request, be nominated again for that office at the
8 same session of the Senate or be appointed to that office
9 during a recess of that Senate.

10 Nothing in this Article precludes the appointment by the
11 Governor, Attorney General, Secretary of State, Comptroller,
12 or Treasurer of any other inspector general required or
13 permitted by law. The Governor, Attorney General, Secretary of
14 State, Comptroller, and Treasurer each may appoint an existing
15 inspector general as the Executive Inspector General required
16 by this Article, provided that such an inspector general is
17 not prohibited by law, rule, jurisdiction, qualification, or
18 interest from serving as the Executive Inspector General
19 required by this Article. An appointing authority may not
20 appoint a relative as an Executive Inspector General.

21 Each Executive Inspector General shall have the following
22 qualifications:

23 (1) has not been convicted of any felony under the
24 laws of this State, another State, or the United States;

25 (2) has earned a baccalaureate degree from an
26 institution of higher education; and

1 (3) has 5 or more years of cumulative service (A) with
2 a federal, State, or local law enforcement agency, at
3 least 2 years of which have been in a progressive
4 investigatory capacity; (B) as a federal, State, or local
5 prosecutor; (C) as a senior manager or executive of a
6 federal, State, or local agency; (D) as a member, an
7 officer, or a State or federal judge; or (E) representing
8 any combination of items (A) through (D).

9 The term of each initial Executive Inspector General shall
10 commence upon qualification and shall run through June 30,
11 2008. The initial appointments shall be made within 60 days
12 after the effective date of this Act.

13 After the initial term, each Executive Inspector General
14 shall serve for 5-year terms commencing on July 1 of the year
15 of appointment and running through June 30 of the fifth
16 following year. An Executive Inspector General may be
17 reappointed to one or more subsequent terms.

18 A vacancy occurring other than at the end of a term shall
19 be filled by the appointing authority only for the balance of
20 the term of the Executive Inspector General whose office is
21 vacant.

22 Terms shall run regardless of whether the position is
23 filled.

24 (c) The Executive Inspector General appointed by the
25 Attorney General shall have jurisdiction over the Attorney
26 General and all officers and employees of, and vendors and

1 others doing business with, State agencies within the
2 jurisdiction of the Attorney General. The Executive Inspector
3 General appointed by the Secretary of State shall have
4 jurisdiction over the Secretary of State and all officers and
5 employees of, and vendors and others doing business with,
6 State agencies within the jurisdiction of the Secretary of
7 State. The Executive Inspector General appointed by the
8 Comptroller shall have jurisdiction over the Comptroller and
9 all officers and employees of, and vendors and others doing
10 business with, State agencies within the jurisdiction of the
11 Comptroller. The Executive Inspector General appointed by the
12 Treasurer shall have jurisdiction over the Treasurer and all
13 officers and employees of, and vendors and others doing
14 business with, State agencies within the jurisdiction of the
15 Treasurer. The Executive Inspector General appointed by the
16 Governor shall have jurisdiction over (i) the Governor, (ii)
17 the Lieutenant Governor, (iii) all officers and employees of,
18 and vendors and others doing business with, executive branch
19 State agencies under the jurisdiction of the Executive Ethics
20 Commission and not within the jurisdiction of the Attorney
21 General, the Secretary of State, the Comptroller, or the
22 Treasurer, and (iv) all board members and employees of the
23 Regional Transit Boards and all vendors and others doing
24 business with the Regional Transit Boards.

25 The jurisdiction of each Executive Inspector General is to
26 investigate allegations of fraud, waste, abuse, mismanagement,

1 misconduct, nonfeasance, misfeasance, malfeasance, or
2 violations of this Act or violations of other related laws and
3 rules.

4 Within 24 hours after determining that there is reasonable
5 suspicion to believe that a criminal act may have been
6 committed or that special expertise may be required in an
7 investigation, each Executive Inspector General shall notify
8 the Department of State Police or other appropriate law
9 enforcement authority, or ensure that such notification is
10 made. The Department of State Police shall investigate any
11 report from an Executive Inspector General that indicates that
12 a possible criminal act relating to bribery, the unlawful use
13 or possession of a weapon, bodily injury or the immediate
14 threat of bodily injury to another, a narcotics-related
15 activity, a criminal sexual assault, or the death of another
16 person has been committed by any officer or employee of, or
17 vendor or other person doing business with a State agency
18 within the jurisdiction of the reporting Executive Inspector
19 General. All investigations conducted by an Executive
20 Inspector General shall be conducted in a manner designed to
21 ensure the preservation of evidence for possible use in a
22 criminal prosecution.

23 Each Executive Inspector General shall have jurisdiction
24 over complainants in violation of subsection (e) of Section
25 20-63 for disclosing a summary report prepared by the
26 respective Executive Inspector General.

1 (d) The compensation for each Executive Inspector General
2 shall be determined by the Executive Ethics Commission and
3 shall be made from appropriations made to the Comptroller for
4 this purpose. Subject to Section 20-45 of this Act, each
5 Executive Inspector General has full authority to organize his
6 or her Office of the Executive Inspector General, including
7 the employment and determination of the compensation of staff,
8 such as deputies, assistants, and other employees, as
9 appropriations permit. A separate appropriation shall be made
10 for each Office of Executive Inspector General.

11 (e) No Executive Inspector General or employee of the
12 Office of the Executive Inspector General may, during his or
13 her term of appointment or employment:

14 (1) become a candidate for any elective office;

15 (2) hold any other elected or appointed public office
16 except for appointments on governmental advisory boards or
17 study commissions or as otherwise expressly authorized by
18 law;

19 (3) be actively involved in the affairs of any
20 political party or political organization; or

21 (4) advocate for the appointment of another person to
22 an appointed or elected office or position or actively
23 participate in any campaign for any elective office.

24 In this subsection an appointed public office means a
25 position authorized by law that is filled by an appointing
26 authority as provided by law and does not include employment

1 by hiring in the ordinary course of business.

2 (e-1) No Executive Inspector General or employee of the
3 Office of the Executive Inspector General may, for one year
4 after the termination of his or her appointment or employment:

5 (1) become a candidate for any elective office;

6 (2) hold any elected public office; or

7 (3) hold any appointed State, county, or local
8 judicial office.

9 (e-2) The requirements of item (3) of subsection (e-1) may
10 be waived by the Executive Ethics Commission.

11 (f) An Executive Inspector General may be removed only for
12 cause and may be removed only by the appointing constitutional
13 officer. At the time of the removal, the appointing
14 constitutional officer must report to the Executive Ethics
15 Commission the justification for the removal.

16 (Source: P.A. 101-221, eff. 8-9-19; revised 9-13-19.)

17 (5 ILCS 430/25-10)

18 Sec. 25-10. Office of Legislative Inspector General.

19 (a) The independent Office of the Legislative Inspector
20 General is created. The Office shall be under the direction
21 and supervision of the Legislative Inspector General and shall
22 be a fully independent office with its own appropriation.

23 (b) The Legislative Inspector General shall be appointed
24 without regard to political affiliation and solely on the
25 basis of integrity and demonstrated ability. The Legislative

1 Ethics Commission shall diligently search out qualified
2 candidates for Legislative Inspector General and shall make
3 recommendations to the General Assembly. The Legislative
4 Inspector General may serve in a full-time, part-time, or
5 contractual capacity.

6 The Legislative Inspector General shall be appointed by a
7 joint resolution of the Senate and the House of
8 Representatives, which may specify the date on which the
9 appointment takes effect. A joint resolution, or other
10 document as may be specified by the Joint Rules of the General
11 Assembly, appointing the Legislative Inspector General must be
12 certified by the Speaker of the House of Representatives and
13 the President of the Senate as having been adopted by the
14 affirmative vote of three-fifths of the members elected to
15 each house, respectively, and be filed with the Secretary of
16 State. The appointment of the Legislative Inspector General
17 takes effect on the day the appointment is completed by the
18 General Assembly, unless the appointment specifies a later
19 date on which it is to become effective.

20 The Legislative Inspector General shall have the following
21 qualifications:

22 (1) has not been convicted of any felony under the
23 laws of this State, another state, or the United States;

24 (2) has earned a baccalaureate degree from an
25 institution of higher education; and

26 (3) has 5 or more years of cumulative service (A) with

1 a federal, State, or local law enforcement agency, at
2 least 2 years of which have been in a progressive
3 investigatory capacity; (B) as a federal, State, or local
4 prosecutor; (C) as a senior manager or executive of a
5 federal, State, or local agency; (D) as a member, an
6 officer, or a State or federal judge; or (E) representing
7 any combination of items (A) through (D).

8 The Legislative Inspector General may not be a relative of
9 a commissioner.

10 The term of the initial Legislative Inspector General
11 shall commence upon qualification and shall run through June
12 30, 2008.

13 After the initial term, the Legislative Inspector General
14 shall serve for 5-year terms commencing on July 1 of the year
15 of appointment and running through June 30 of the fifth
16 following year. The Legislative Inspector General may be
17 reappointed to one or more subsequent terms. Terms shall run
18 regardless of whether the position is filled.

19 (b-5) A vacancy occurring other than at the end of a term
20 shall be filled in the same manner as an appointment only for
21 the balance of the term of the Legislative Inspector General
22 whose office is vacant. Within 7 days of the Office becoming
23 vacant or receipt of a Legislative Inspector General's
24 prospective resignation, the vacancy shall be publicly posted
25 on the Commission's website, along with a description of the
26 requirements for the position and where applicants may apply.

1 Within 45 days of the vacancy, the Commission shall
2 designate an Acting Legislative Inspector General who shall
3 serve until the vacancy is filled. The Commission shall file
4 the designation in writing with the Secretary of State.

5 Within 60 days prior to the end of the term of the
6 Legislative Inspector General or within 30 days of the
7 occurrence of a vacancy in the Office of the Legislative
8 Inspector General, the Legislative Ethics Commission shall
9 establish a four-member search committee within the Commission
10 for the purpose of conducting a search for qualified
11 candidates to serve as Legislative Inspector General. The
12 Speaker of the House of Representatives, Minority Leader of
13 the House, Senate President, and Minority Leader of the Senate
14 shall each appoint one member to the search committee. A
15 member of the search committee shall be either a retired judge
16 or former prosecutor and may not be a member or employee of the
17 General Assembly or a registered lobbyist. If the Legislative
18 Ethics Commission wishes to recommend that the Legislative
19 Inspector General be re-appointed, a search committee does not
20 need to be appointed.

21 The search committee shall conduct a search for qualified
22 candidates, accept applications, and conduct interviews. The
23 search committee shall recommend up to 3 candidates for
24 Legislative Inspector General to the Legislative Ethics
25 Commission. The search committee shall be disbanded upon an
26 appointment of the Legislative Inspector General. Members of

1 the search committee are not entitled to compensation but
2 shall be entitled to reimbursement of reasonable expenses
3 incurred in connection with the performance of their duties.

4 Within 30 days after June 8, 2018 (the effective date of
5 Public Act 100-588) ~~this amendatory Act of the 100th General~~
6 ~~Assembly~~, the Legislative Ethics Commission shall create a
7 search committee in the manner provided for in this subsection
8 to recommend up to 3 candidates for Legislative Inspector
9 General to the Legislative Ethics Commission by October 31,
10 2018.

11 If a vacancy exists and the Commission has not appointed
12 an Acting Legislative Inspector General, either the staff of
13 the Office of the Legislative Inspector General, or if there
14 is no staff, the Executive Director, shall advise the
15 Commission of all open investigations and any new allegations
16 or complaints received in the Office of the Inspector General.
17 These reports shall not include the name of any person
18 identified in the allegation or complaint, including, but not
19 limited to, the subject of and the person filing the
20 allegation or complaint. Notification shall be made to the
21 Commission on a weekly basis unless the Commission approves of
22 a different reporting schedule.

23 If the Office of the Inspector General is vacant for 6
24 months or more beginning on or after January 1, 2019, and the
25 Legislative Ethics Commission has not appointed an Acting
26 Legislative Inspector General, all complaints made to the

1 Legislative Inspector General or the Legislative Ethics
2 Commission shall be directed to the Inspector General for the
3 Auditor General, and he or she shall have the authority to act
4 as provided in subsection (c) of this Section and Section
5 25-20 of this Act, and shall be subject to all laws and rules
6 governing a Legislative Inspector General or Acting
7 Legislative Inspector General. The authority for the Inspector
8 General of the Auditor General under this paragraph shall
9 terminate upon appointment of a Legislative Inspector General
10 or an Acting Legislative Inspector General.

11 (c) The Legislative Inspector General shall have
12 jurisdiction over the current and former members of the
13 General Assembly regarding events occurring during a member's
14 term of office and current and former State employees
15 regarding events occurring during any period of employment
16 where the State employee's ultimate jurisdictional authority
17 is (i) a legislative leader, (ii) the Senate Operations
18 Commission, or (iii) the Joint Committee on Legislative
19 Support Services.

20 The jurisdiction of each Legislative Inspector General is
21 to investigate allegations of fraud, waste, abuse,
22 mismanagement, misconduct, nonfeasance, misfeasance,
23 malfeasance, or violations of this Act or violations of other
24 related laws and rules.

25 Within 24 hours after determining that there is reasonable
26 suspicion to believe that a criminal act may have been

1 committed or that special expertise may be required in an
2 investigation, the Legislative Inspector General shall notify
3 the Department of State Police or other appropriate law
4 enforcement authority, or ensure that such notification is
5 made. The Department of State Police shall investigate any
6 report from the Legislative Inspector General that indicates
7 that a possible criminal act relating to bribery, the unlawful
8 use or possession of a weapon, bodily injury or the immediate
9 threat of bodily injury to another, a narcotics-related
10 activity, a criminal sexual assault, or the death of another
11 person has been committed by any member of the General
12 Assembly or State employee under the jurisdiction of the
13 Legislative Inspector General. All investigations conducted by
14 the Legislative Inspector General shall be conducted in a
15 manner designed to ensure the preservation of evidence for
16 possible use in a criminal prosecution.

17 The Legislative Inspector General shall have jurisdiction
18 over complainants in violation of subsection (e) of Section
19 25-63 of this Act.

20 (d) The compensation of the Legislative Inspector General
21 shall be the greater of an amount ~~(i)~~ determined (i) by the
22 Commission or (ii) by joint resolution of the General Assembly
23 passed by a majority of members elected in each chamber.
24 Subject to Section 25-45 of this Act, the Legislative
25 Inspector General has full authority to organize the Office of
26 the Legislative Inspector General, including the employment

1 and determination of the compensation of staff, such as
2 deputies, assistants, and other employees, as appropriations
3 permit. Employment of staff is subject to the approval of at
4 least 3 of the 4 legislative leaders.

5 (e) No Legislative Inspector General or employee of the
6 Office of the Legislative Inspector General may, during his or
7 her term of appointment or employment:

8 (1) become a candidate for any elective office;

9 (2) hold any other elected or appointed public office
10 except for appointments on governmental advisory boards or
11 study commissions or as otherwise expressly authorized by
12 law;

13 (3) be actively involved in the affairs of any
14 political party or political organization; or

15 (4) actively participate in any campaign for any
16 elective office.

17 A full-time Legislative Inspector General shall not engage
18 in the practice of law or any other business, employment, or
19 vocation.

20 In this subsection an appointed public office means a
21 position authorized by law that is filled by an appointing
22 authority as provided by law and does not include employment
23 by hiring in the ordinary course of business.

24 (e-1) No Legislative Inspector General or employee of the
25 Office of the Legislative Inspector General may, for one year
26 after the termination of his or her appointment or employment:

- 1 (1) become a candidate for any elective office;
- 2 (2) hold any elected public office; or
- 3 (3) hold any appointed State, county, or local
- 4 judicial office.

5 (e-2) The requirements of item (3) of subsection (e-1) may

6 be waived by the Legislative Ethics Commission.

7 (f) The Commission may remove the Legislative Inspector

8 General only for cause. At the time of the removal, the

9 Commission must report to the General Assembly the

10 justification for the removal.

11 (Source: P.A. 100-588, eff. 6-8-18; 101-221, eff. 8-9-19;

12 revised 9-12-19.)

13 (5 ILCS 430/30-5)

14 Sec. 30-5. Appointment of Inspector General.

15 (a) The Auditor General shall appoint an Inspector General

16 (i) to investigate allegations of violations of Articles 5 and

17 10 by State officers and employees under his or her

18 jurisdiction and (ii) to perform other duties and exercise

19 other powers assigned to the Inspectors General by this or any

20 other Act. The Inspector General shall be appointed within 6

21 months after the effective date of this Act.

22 (b) The Auditor General shall provide by rule for the

23 operation of his or her Inspector General. It is declared to be

24 in the public interest, safety, and welfare that the Auditor

25 General adopt emergency rules under the Illinois

1 Administrative Procedure Act to initially perform his or her
2 duties under this subsection.

3 (c) The Auditor General may appoint an existing inspector
4 general as the Inspector General required by this Article,
5 provided that such an inspector general is not prohibited by
6 law, rule, jurisdiction, qualification, or interest from
7 serving as the Inspector General required by this Article.

8 The Auditor General may not appoint a relative as the
9 Inspector General required by this Article.

10 (d) Within 24 hours after determining that there is
11 reasonable suspicion to believe that a criminal act may have
12 been committed or that special expertise may be required in an
13 investigation, the Inspector General shall notify the
14 Department of State Police or other appropriate law
15 enforcement authority, or ensure that such notification is
16 made. The Department of State Police shall investigate any
17 report from the Inspector General that indicates that a
18 possible criminal act relating to bribery, the unlawful use or
19 possession of a weapon, bodily injury or the immediate threat
20 of bodily injury to another, a narcotics-related activity, a
21 criminal sexual assault, or the death of another person has
22 been committed by a State officer or employee under the
23 Inspector General's jurisdiction. All investigations conducted
24 by the Inspector General shall be conducted in a manner
25 designed to ensure the preservation of evidence for possible
26 use in a criminal prosecution.

1 (Source: P.A. 93-617, eff. 12-9-03.)

2 Section 10. The Secretary of State Act is amended by
3 changing Section 14 as follows:

4 (15 ILCS 305/14)

5 Sec. 14. Inspector General.

6 (a) The Secretary of State must, with the advice and
7 consent of the Senate, appoint an Inspector General for the
8 purpose of detection, deterrence, and prevention of fraud,
9 corruption, mismanagement, gross or aggravated misconduct, or
10 misconduct that may be criminal in nature in the Office of the
11 Secretary of State. The Inspector General shall serve a 5-year
12 term. If no successor is appointed and qualified upon the
13 expiration of the Inspector General's term, the Office of
14 Inspector General is deemed vacant and the powers and duties
15 under this Section may be exercised only by an appointed and
16 qualified interim Inspector General until a successor
17 Inspector General is appointed and qualified. If the General
18 Assembly is not in session when a vacancy in the Office of
19 Inspector General occurs, the Secretary of State may appoint
20 an interim Inspector General whose term shall expire 2 weeks
21 after the next regularly scheduled session day of the Senate.

22 (b) The Inspector General shall have the following
23 qualifications:

24 (1) has not been convicted of any felony under the

1 laws of this State, another State, or the United States;

2 (2) has earned a baccalaureate degree from an
3 institution of higher education; and

4 (3) has either (A) 5 or more years of service with a
5 federal, State, or local law enforcement agency, at least
6 2 years of which have been in a progressive investigatory
7 capacity; (B) 5 or more years of service as a federal,
8 State, or local prosecutor; or (C) 5 or more years of
9 service as a senior manager or executive of a federal,
10 State, or local agency.

11 (c) The Inspector General may review, coordinate, and
12 recommend methods and procedures to increase the integrity of
13 the Office of the Secretary of State. The duties of the
14 Inspector General shall supplement and not supplant the duties
15 of the Chief Auditor for the Secretary of State's Office or any
16 other Inspector General that may be authorized by law. The
17 Inspector General must report directly to the Secretary of
18 State.

19 (d) In addition to the authority otherwise provided by
20 this Section, but only when investigating the Office of the
21 Secretary of State, its employees, or their actions for fraud,
22 corruption, mismanagement, gross or aggravated misconduct, or
23 misconduct that may be criminal in nature, the Inspector
24 General is authorized:

25 (1) To have access to all records, reports, audits,
26 reviews, documents, papers, recommendations, or other

1 materials available that relate to programs and operations
2 with respect to which the Inspector General has
3 responsibilities under this Section.

4 (2) To make any investigations and reports relating to
5 the administration of the programs and operations of the
6 Office of the Secretary of State that are, in the judgment
7 of the Inspector General, necessary or desirable.

8 (3) To request any information or assistance that may
9 be necessary for carrying out the duties and
10 responsibilities provided by this Section from any local,
11 State, or federal governmental agency or unit thereof.

12 (4) To require by subpoena the appearance of witnesses
13 and the production of all information, documents, reports,
14 answers, records, accounts, papers, and other data and
15 documentary evidence necessary in the performance of the
16 functions assigned by this Section, with the exception of
17 subsection (c) and with the exception of records of a
18 labor organization authorized and recognized under the
19 Illinois Public Labor Relations Act to be the exclusive
20 bargaining representative of employees of the Secretary of
21 State, including, but not limited to, records of
22 representation of employees and the negotiation of
23 collective bargaining agreements. A subpoena may be issued
24 under this paragraph (4) only by the Inspector General and
25 not by members of the Inspector General's staff. A person
26 duly subpoenaed for testimony, documents, or other items

1 who neglects or refuses to testify or produce documents or
2 other items under the requirements of the subpoena shall
3 be subject to punishment as may be determined by a court of
4 competent jurisdiction, unless (i) the testimony,
5 documents, or other items are covered by the
6 attorney-client privilege or any other privilege or right
7 recognized by law or (ii) the testimony, documents, or
8 other items concern the representation of employees and
9 the negotiation of collective bargaining agreements by a
10 labor organization authorized and recognized under the
11 Illinois Public Labor Relations Act to be the exclusive
12 bargaining representative of employees of the Secretary of
13 State. Nothing in this Section limits a person's right to
14 protection against self-incrimination under the Fifth
15 Amendment of the United States Constitution or Article I,
16 Section 10, of the Constitution of the State of Illinois.

17 (5) To have direct and prompt access to the Secretary
18 of State for any purpose pertaining to the performance of
19 functions and responsibilities under this Section.

20 (d-5) In addition to the authority otherwise provided by
21 this Section, the Secretary of State Inspector General shall
22 have jurisdiction to investigate complaints and allegations of
23 wrongdoing by any person or entity related to the Lobbyist
24 Registration Act. When investigating those complaints and
25 allegations, the Inspector General is authorized:

26 (1) To have access to all records, reports, audits,

1 reviews, documents, papers, recommendations, or other
2 materials available that relate to programs and operations
3 with respect to which the Inspector General has
4 responsibilities under this Section.

5 (2) To request any information or assistance that may
6 be necessary for carrying out the duties and
7 responsibilities provided by this Section from any local,
8 State, or federal governmental agency or unit thereof.

9 (3) To require by subpoena the appearance of witnesses
10 and the production of all information, documents, reports,
11 answers, records, accounts, papers, and other data and
12 documentary evidence necessary in the performance of the
13 functions assigned by this Section. A subpoena may be
14 issued under this paragraph (3) only by the Inspector
15 General and not by members of the Inspector General's
16 staff. A person duly subpoenaed for testimony, documents,
17 or other items who neglects or refuses to testify or
18 produce documents or other items under the requirements of
19 the subpoena shall be subject to punishment as may be
20 determined by a court of competent jurisdiction, unless
21 the testimony, documents, or other items are covered by
22 the attorney-client privilege or any other privilege or
23 right recognized by law. Nothing in this Section limits a
24 person's right to protection against self-incrimination
25 under the Fifth Amendment of the United States
26 Constitution or Section 10 of Article I of the

1 Constitution of the State of Illinois.

2 (4) To have direct and prompt access to the Secretary
3 of State for any purpose pertaining to the performance of
4 functions and responsibilities under this Section.

5 (5) As provided in subsection (d) of Section 5 of the
6 Lobbyist Registration Act, to review allegations that an
7 individual required to be registered under the Lobbyist
8 Registration Act has engaged in one or more acts of sexual
9 harassment. Upon completion of that review, the Inspector
10 General shall submit a summary of the review to the
11 Executive Ethics Commission. The Inspector General is
12 authorized to file pleadings with the Executive Ethics
13 Commission, through the Attorney General, if the Attorney
14 General finds that reasonable cause exists to believe that
15 a violation regarding acts of sexual harassment has
16 occurred. The Secretary shall adopt rules setting forth
17 the procedures for the review of such allegations.

18 (e) The Inspector General may receive and investigate
19 complaints or information concerning the possible existence of
20 an activity constituting a violation of law, rules, or
21 regulations; mismanagement; abuse of authority; or substantial
22 and specific danger to the public health and safety. Any
23 person who knowingly files a false complaint or files a
24 complaint with reckless disregard for the truth or the falsity
25 of the facts underlying the complaint may be subject to
26 discipline as set forth in the rules of the Department of

1 Personnel of the Secretary of State or the Inspector General
2 may refer the matter to a State's Attorney or the Attorney
3 General.

4 The Inspector General may not, after receipt of a
5 complaint or information, disclose the identity of the source
6 without the consent of the source, unless the Inspector
7 General determines that disclosure of the identity is
8 reasonable and necessary for the furtherance of the
9 investigation.

10 Any employee who has the authority to recommend or approve
11 any personnel action or to direct others to recommend or
12 approve any personnel action may not, with respect to that
13 authority, take or threaten to take any action against any
14 employee as a reprisal for making a complaint or disclosing
15 information to the Inspector General, unless the complaint was
16 made or the information disclosed with the knowledge that it
17 was false or with willful disregard for its truth or falsity.

18 (e-5) Within 24 hours after determining that there is
19 reasonable suspicion to believe that a criminal act may have
20 been committed or that special expertise may be required in an
21 investigation, the Inspector General shall notify the
22 Department of State Police or other appropriate law
23 enforcement authority, or ensure that such notification is
24 made. The Department of State Police shall investigate any
25 report from the Inspector General that indicates that a
26 possible criminal act relating to bribery, the unlawful use or

1 possession of a weapon, bodily injury or the immediate threat
2 of bodily injury to another, a narcotics-related activity, a
3 criminal sexual assault, or the death of another person has
4 been committed by any person or entity under the Inspector
5 General's jurisdiction. All investigations conducted by the
6 Inspector General shall be conducted in a manner designed to
7 ensure the preservation of evidence for possible use in a
8 criminal prosecution.

9 (f) The Inspector General must adopt rules, in accordance
10 with the provisions of the Illinois Administrative Procedure
11 Act, establishing minimum requirements for initiating,
12 conducting, and completing investigations. The rules must
13 establish criteria for determining, based upon the nature of
14 the allegation, the appropriate method of investigation, which
15 may include, but is not limited to, site visits, telephone
16 contacts, personal interviews, or requests for written
17 responses. The rules must also clarify how the Office of the
18 Inspector General shall interact with other local, State, and
19 federal law enforcement investigations.

20 Any employee of the Secretary of State subject to
21 investigation or inquiry by the Inspector General or any agent
22 or representative of the Inspector General concerning
23 misconduct that is criminal in nature shall have the right to
24 be notified of the right to remain silent during the
25 investigation or inquiry and the right to be represented in
26 the investigation or inquiry by an attorney or a

1 representative of a labor organization that is the exclusive
2 collective bargaining representative of employees of the
3 Secretary of State. Any investigation or inquiry by the
4 Inspector General or any agent or representative of the
5 Inspector General must be conducted with an awareness of the
6 provisions of a collective bargaining agreement that applies
7 to the employees of the Secretary of State and with an
8 awareness of the rights of the employees as set forth in State
9 and federal law and applicable judicial decisions. Any
10 recommendations for discipline or any action taken against any
11 employee by the Inspector General or any representative or
12 agent of the Inspector General must comply with the provisions
13 of the collective bargaining agreement that applies to the
14 employee.

15 (g) On or before January 1 of each year, the Inspector
16 General shall report to the President of the Senate, the
17 Minority Leader of the Senate, the Speaker of the House of
18 Representatives, and the Minority Leader of the House of
19 Representatives on the types of investigations and the
20 activities undertaken by the Office of the Inspector General
21 during the previous calendar year.

22 (Source: P.A. 100-554, eff. 11-16-17; 100-588, eff. 6-8-18.)

23 Section 15. The Children and Family Services Act is
24 amended by changing Section 35.5 as follows:

1 (20 ILCS 505/35.5)

2 Sec. 35.5. Inspector General.

3 (a) The Governor shall appoint, and the Senate shall
4 confirm, an Inspector General who shall have the authority to
5 conduct investigations into allegations of or incidents of
6 possible misconduct, misfeasance, malfeasance, or violations
7 of rules, procedures, or laws by any employee, foster parent,
8 service provider, or contractor of the Department of Children
9 and Family Services, except for allegations of violations of
10 the State Officials and Employees Ethics Act which shall be
11 referred to the Office of the Governor's Executive Inspector
12 General for investigation. The Inspector General shall make
13 recommendations to the Director of Children and Family
14 Services concerning sanctions or disciplinary actions against
15 Department employees or providers of service under contract to
16 the Department. The Director of Children and Family Services
17 shall provide the Inspector General with an implementation
18 report on the status of any corrective actions taken on
19 recommendations under review and shall continue sending
20 updated reports until the corrective action is completed. The
21 Director shall provide a written response to the Inspector
22 General indicating the status of any sanctions or disciplinary
23 actions against employees or providers of service involving
24 any investigation subject to review. In any case, information
25 included in the reports to the Inspector General and
26 Department responses shall be subject to the public disclosure

1 requirements of the Abused and Neglected Child Reporting Act.
2 Any investigation conducted by the Inspector General shall be
3 independent and separate from the investigation mandated by
4 the Abused and Neglected Child Reporting Act. The Inspector
5 General shall be appointed for a term of 4 years. The Inspector
6 General shall function independently within the Department of
7 Children and Family Services with respect to the operations of
8 the Office of Inspector General, including the performance of
9 investigations and issuance of findings and recommendations,
10 and shall report to the Director of Children and Family
11 Services and the Governor and perform other duties the
12 Director may designate. The Inspector General shall adopt
13 rules as necessary to carry out the functions, purposes, and
14 duties of the office of Inspector General in the Department of
15 Children and Family Services, in accordance with the Illinois
16 Administrative Procedure Act and any other applicable law.

17 (b) The Inspector General shall have access to all
18 information and personnel necessary to perform the duties of
19 the office. To minimize duplication of efforts, and to assure
20 consistency and conformance with the requirements and
21 procedures established in the B.H. v. Suter consent decree and
22 to share resources when appropriate, the Inspector General
23 shall coordinate his or her activities with the Bureau of
24 Quality Assurance within the Department.

25 (c) The Inspector General shall be the primary liaison
26 between the Department and the Department of State Police with

1 regard to investigations conducted under the Inspector
2 General's auspices. Within 24 hours after determining that
3 there is reasonable suspicion to believe that a criminal act
4 may have been committed or that special expertise may be
5 required in an investigation, the Inspector General shall
6 notify the Department of State Police or other appropriate law
7 enforcement authority, or ensure that such notification is
8 made. The Department of State Police shall investigate any
9 report from a child care facility or any other facility
10 licensed by the Department of Children and Family Services
11 that indicates that a possible criminal act relating to
12 bribery, the unlawful use or possession of a weapon, bodily
13 injury or the immediate threat of bodily injury to another, a
14 narcotics-related activity, a criminal sexual assault, or the
15 death of another person has been committed by a facility
16 employee. All investigations conducted by the Inspector
17 General shall be conducted in a manner designed to ensure the
18 preservation of evidence for possible use in a criminal
19 prosecution. ~~If the Inspector General determines that a~~
20 ~~possible criminal act has been committed, or that special~~
21 ~~expertise is required in the investigation, he or she shall~~
22 ~~immediately notify the Department of State Police. All~~
23 ~~investigations conducted by the Inspector General shall be~~
24 ~~conducted in a manner designed to ensure the preservation of~~
25 ~~evidence for possible use in a criminal prosecution.~~

26 (d) The Inspector General may recommend to the Department

1 of Children and Family Services, the Department of Public
2 Health, or any other appropriate agency, sanctions to be
3 imposed against service providers under the jurisdiction of or
4 under contract with the Department for the protection of
5 children in the custody or under the guardianship of the
6 Department who received services from those providers. The
7 Inspector General may seek the assistance of the Attorney
8 General or any of the several State's Attorneys in imposing
9 sanctions.

10 (e) The Inspector General shall at all times be granted
11 access to any foster home, facility, or program operated for
12 or licensed or funded by the Department.

13 (f) Nothing in this Section shall limit investigations by
14 the Department of Children and Family Services that may
15 otherwise be required by law or that may be necessary in that
16 Department's capacity as the central administrative authority
17 for child welfare.

18 (g) The Inspector General shall have the power to subpoena
19 witnesses and compel the production of books and papers
20 pertinent to an investigation authorized by this Act. The
21 power to subpoena or to compel the production of books and
22 papers, however, shall not extend to the person or documents
23 of a labor organization or its representatives insofar as the
24 person or documents of a labor organization relate to the
25 function of representing an employee subject to investigation
26 under this Act. Any person who fails to appear in response to a

1 subpoena or to answer any question or produce any books or
2 papers pertinent to an investigation under this Act, except as
3 otherwise provided in this Section, or who knowingly gives
4 false testimony in relation to an investigation under this Act
5 is guilty of a Class A misdemeanor.

6 (h) The Inspector General shall provide to the General
7 Assembly and the Governor, no later than January 1 of each
8 year, a summary of reports and investigations made under this
9 Section for the prior fiscal year. The summaries shall detail
10 the imposition of sanctions and the final disposition of those
11 recommendations. The summaries shall not contain any
12 confidential or identifying information concerning the
13 subjects of the reports and investigations. The summaries also
14 shall include detailed recommended administrative actions and
15 matters for consideration by the General Assembly.

16 (Source: P.A. 95-527, eff. 6-1-08; 96-555, eff. 8-18-09.)

17 Section 20. The Department of Human Services Act is
18 amended by changing Section 1-17 as follows:

19 (20 ILCS 1305/1-17)

20 Sec. 1-17. Inspector General.

21 (a) Nature and purpose. It is the express intent of the
22 General Assembly to ensure the health, safety, and financial
23 condition of individuals receiving services in this State due
24 to mental illness, developmental disability, or both by

1 protecting those persons from acts of abuse, neglect, or both
2 by service providers. To that end, the Office of the Inspector
3 General for the Department of Human Services is created to
4 investigate and report upon allegations of the abuse, neglect,
5 or financial exploitation of individuals receiving services
6 within mental health facilities, developmental disabilities
7 facilities, and community agencies operated, licensed, funded,
8 or certified by the Department of Human Services, but not
9 licensed or certified by any other State agency.

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

12 "Adult student with a disability" means an adult student,
13 age 18 through 21, inclusive, with an Individual Education
14 Program, other than a resident of a facility licensed by the
15 Department of Children and Family Services in accordance with
16 the Child Care Act of 1969. For purposes of this definition,
17 "through age 21, inclusive", means through the day before the
18 student's 22nd birthday.

19 "Agency" or "community agency" means (i) a community
20 agency licensed, funded, or certified by the Department, but
21 not licensed or certified by any other human services agency
22 of the State, to provide mental health service or
23 developmental disabilities service, or (ii) a program
24 licensed, funded, or certified by the Department, but not
25 licensed or certified by any other human services agency of
26 the State, to provide mental health service or developmental

1 disabilities service.

2 "Aggravating circumstance" means a factor that is
3 attendant to a finding and that tends to compound or increase
4 the culpability of the accused.

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

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

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

16 "Department" means the Department of Human Services.

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

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

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

11 "Facility" or "State-operated facility" means a mental
12 health facility or developmental disabilities facility
13 operated by the Department.

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

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

21 "Health Care Worker Registry" or "Registry" means the
22 Health Care Worker Registry under the Health Care Worker
23 Background Check Act.

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

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

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

9 "Mentally ill" means having a mental illness.

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

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

24 "Person with a developmental disability" means a person
25 having a developmental disability.

26 "Physical abuse" means an employee's non-accidental and

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

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

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

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

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

1 with the individual.

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

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

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

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

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

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

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

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

24 (f) Limitations. The Inspector General shall not conduct
25 an investigation within an agency or facility if that
26 investigation would be redundant to or interfere with an

1 investigation conducted by another State agency. The Inspector
2 General shall have no supervision over, or involvement in, the
3 routine programmatic, licensing, funding, or certification
4 operations of the Department. Nothing in this subsection
5 limits investigations by the Department that may otherwise be
6 required by law or that may be necessary in the Department's
7 capacity as central administrative authority responsible for
8 the operation of the State's mental health and developmental
9 disabilities facilities.

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

25 (h) Training programs. The Inspector General shall (i)
26 establish a comprehensive program to ensure that every person

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

21 (i) Duty to cooperate.

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

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

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

26 (j) Subpoena powers. The Inspector General shall have the

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

13 (k) Reporting allegations and deaths.

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

1 requirements is guilty of a Class A misdemeanor.

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

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

9 (ii) Any death of an individual occurring within
10 24 hours after deflection from a residential program
11 or facility.

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

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

20 (1) Reporting to law enforcement.

21 (1) Reporting criminal acts. Within 24 hours after
22 determining that there is reasonable suspicion to believe
23 ~~credible evidence indicating~~ that a criminal act may have
24 been committed or that special expertise may be required
25 in an investigation, the Inspector General shall notify
26 the Department of State Police or other appropriate law

1 enforcement authority, or ensure that such notification is
2 made. The Department of State Police shall investigate any
3 report from a State-operated facility that indicates that
4 a possible criminal act relating to bribery, the unlawful
5 use or possession of a weapon, bodily injury or the
6 immediate threat of bodily injury to another, a
7 narcotics-related activity, a criminal sexual assault, or
8 the death of another person has been committed ~~indicating~~
9 ~~a possible murder, sexual assault, or other felony~~ by an
10 employee. All investigations conducted by the Inspector
11 General shall be conducted in a manner designed to ensure
12 the preservation of evidence for possible use in a
13 criminal prosecution.

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

1 Department, the Office of the Inspector General shall also
2 make a referral to the respective Department of Human
3 Services' Division or Bureau.

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, finding an
10 allegation is unsubstantiated, or if a recommendation is made,
11 the Inspector General shall provide the investigative report
12 on the case to the Secretary and to the director of the
13 facility or agency where any one or more of the following
14 occurred: mental abuse, physical abuse, sexual abuse, neglect,
15 egregious neglect, or financial exploitation. The director of
16 the facility or agency shall be responsible for maintaining
17 the confidentiality of the investigative report consistent
18 with State and federal law. In a substantiated case, the
19 investigative report shall include any mitigating or
20 aggravating circumstances that were identified during the
21 investigation. If the case involves substantiated neglect, the
22 investigative report shall also state whether egregious
23 neglect was found. An investigative report may also set forth
24 recommendations. All investigative reports prepared by the
25 Office of the Inspector General shall be considered
26 confidential and shall not be released except as provided by

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

20 (n) Written responses, clarification requests, and
21 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
5 the 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) Requests for clarification. The facility, agency,
9 victim or guardian, or the subject employee may request
10 that the Office of Inspector General clarify the finding
11 or findings for which clarification is sought.

12 (3) Requests for reconsideration. The facility,
13 agency, victim or guardian, or the subject employee may
14 request that the Office of the Inspector General
15 reconsider the finding or findings or the recommendations.
16 A request for reconsideration shall be subject to a
17 multi-layer review and shall include at least one reviewer
18 who did not participate in the investigation or approval
19 of the original investigative report. After the
20 multi-layer review process has been completed, the
21 Inspector General shall make the final determination on
22 the reconsideration request. The investigation shall be
23 reopened if the reconsideration determination finds that
24 additional information is needed to complete the
25 investigative record.

26 (o) Disclosure of the finding by the Inspector General.

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

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

18 (q) Action by facility or agency. Within 30 days of the
19 date the Secretary approves the written response or directs
20 that further administrative action be taken, the facility or
21 agency shall provide an implementation report to the Inspector
22 General that provides the status of the action taken. The
23 facility or agency shall be allowed an additional 30 days to
24 send notice of completion of the action or to send an updated
25 implementation report. If the action has not been completed
26 within the additional 30-day period, the facility or agency

1 shall send updated implementation reports every 60 days until
2 completion. The Inspector General shall conduct a review of
3 any implementation plan that takes more than 120 days after
4 approval to complete, and shall monitor compliance through a
5 random review of approved written responses, which may
6 include, but are not limited to: (i) site visits, (ii)
7 telephone contact, and (iii) requests for additional
8 documentation evidencing compliance.

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

16 (1) Appointment of on-site monitors.

17 (2) Transfer or relocation of an individual or
18 individuals.

19 (3) Closure of units.

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

21 (i) Department licensing, (ii) funding, or (iii)
22 certification.

23 The Inspector General may seek the assistance of the
24 Illinois Attorney General or the office of any State's
25 Attorney in implementing sanctions.

26 (s) Health Care Worker Registry.

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

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

1 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
5 to 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
19 sent to the Registry, the employee's name shall be removed
20 from the Registry.

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

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

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

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

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

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

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

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

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

26 (3) Advise the Inspector General as to the content of

1 training activities authorized under this Section.

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

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

25 (w) Program audit. The Auditor General shall conduct a
26 program audit of the Office of the Inspector General on an

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

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

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

24 (Source: P.A. 100-313, eff. 8-24-17; 100-432, eff. 8-25-17;
25 100-863, eff. 8-14-18; 100-943, eff. 1-1-19; 100-991, eff.
26 8-20-18; 100-1098, eff. 8-26-18; 101-81, eff. 7-12-19.)

1 Section 25. The Illinois Public Aid Code is amended by
2 changing Section 12-13.1 as follows:

3 (305 ILCS 5/12-13.1)

4 Sec. 12-13.1. Inspector General.

5 (a) The Governor shall appoint, and the Senate shall
6 confirm, an Inspector General who shall function within the
7 Illinois Department of Public Aid (now Healthcare and Family
8 Services) and report to the Governor. The term of the
9 Inspector General shall expire on the third Monday of January,
10 1997 and every 4 years thereafter.

11 (b) In order to prevent, detect, and eliminate fraud,
12 waste, abuse, mismanagement, and misconduct, the Inspector
13 General shall oversee the Department of Healthcare and Family
14 Services' and the Department on Aging's integrity functions,
15 which include, but are not limited to, the following:

16 (1) Investigation of misconduct by employees, vendors,
17 contractors and medical providers, except for allegations
18 of violations of the State Officials and Employees Ethics
19 Act which shall be referred to the Office of the
20 Governor's Executive Inspector General for investigation.

21 (2) Prepayment and post-payment audits of medical
22 providers related to ensuring that appropriate payments
23 are made for services rendered and to the prevention and
24 recovery of overpayments.

1 (3) Monitoring of quality assurance programs
2 administered by the Department of Healthcare and Family
3 Services and the Community Care Program administered by
4 the Department on Aging.

5 (4) Quality control measurements of the programs
6 administered by the Department of Healthcare and Family
7 Services and the Community Care Program administered by
8 the Department on Aging.

9 (5) Investigations of fraud or intentional program
10 violations committed by clients of the Department of
11 Healthcare and Family Services and the Community Care
12 Program administered by the Department on Aging.

13 (6) Actions initiated against contractors, vendors, or
14 medical providers for any of the following reasons:

15 (A) Violations of the medical assistance program
16 and the Community Care Program administered by the
17 Department on Aging.

18 (B) Sanctions against providers brought in
19 conjunction with the Department of Public Health or
20 the Department of Human Services (as successor to the
21 Department of Mental Health and Developmental
22 Disabilities).

23 (C) Recoveries of assessments against hospitals
24 and long-term care facilities.

25 (D) Sanctions mandated by the United States
26 Department of Health and Human Services against

1 medical providers.

2 (E) Violations of contracts related to any
3 programs administered by the Department of Healthcare
4 and Family Services and the Community Care Program
5 administered by the Department on Aging.

6 (7) Representation of the Department of Healthcare and
7 Family Services at hearings with the Illinois Department
8 of Financial and Professional Regulation in actions taken
9 against professional licenses held by persons who are in
10 violation of orders for child support payments.

11 (b-5) At the request of the Secretary of Human Services,
12 the Inspector General shall, in relation to any function
13 performed by the Department of Human Services as successor to
14 the Department of Public Aid, exercise one or more of the
15 powers provided under this Section as if those powers related
16 to the Department of Human Services; in such matters, the
17 Inspector General shall report his or her findings to the
18 Secretary of Human Services.

19 (c) Notwithstanding, and in addition to, any other
20 provision of law, the Inspector General shall have access to
21 all information, personnel and facilities of the Department of
22 Healthcare and Family Services and the Department of Human
23 Services (as successor to the Department of Public Aid), their
24 employees, vendors, contractors and medical providers and any
25 federal, State or local governmental agency that are necessary
26 to perform the duties of the Office as directly related to

1 public assistance programs administered by those departments.
2 No medical provider shall be compelled, however, to provide
3 individual medical records of patients who are not clients of
4 the programs administered by the Department of Healthcare and
5 Family Services. State and local governmental agencies are
6 authorized and directed to provide the requested information,
7 assistance or cooperation.

8 For purposes of enhanced program integrity functions and
9 oversight, and to the extent consistent with applicable
10 information and privacy, security, and disclosure laws, State
11 agencies and departments shall provide the Office of Inspector
12 General access to confidential and other information and data,
13 and the Inspector General is authorized to enter into
14 agreements with appropriate federal agencies and departments
15 to secure similar data. This includes, but is not limited to,
16 information pertaining to: licensure; certification; earnings;
17 immigration status; citizenship; wage reporting; unearned and
18 earned income; pension income; employment; supplemental
19 security income; social security numbers; National Provider
20 Identifier (NPI) numbers; the National Practitioner Data Bank
21 (NPDB); program and agency exclusions; taxpayer identification
22 numbers; tax delinquency; corporate information; and death
23 records.

24 The Inspector General shall enter into agreements with
25 State agencies and departments, and is authorized to enter
26 into agreements with federal agencies and departments, under

1 which such agencies and departments shall share data necessary
2 for medical assistance program integrity functions and
3 oversight. The Inspector General shall enter into agreements
4 with State agencies and departments, and is authorized to
5 enter into agreements with federal agencies and departments,
6 under which such agencies shall share data necessary for
7 recipient and vendor screening, review, and investigation,
8 including but not limited to vendor payment and recipient
9 eligibility verification. The Inspector General shall develop,
10 in cooperation with other State and federal agencies and
11 departments, and in compliance with applicable federal laws
12 and regulations, appropriate and effective methods to share
13 such data. The Inspector General shall enter into agreements
14 with State agencies and departments, and is authorized to
15 enter into agreements with federal agencies and departments,
16 including, but not limited to: the Secretary of State; the
17 Department of Revenue; the Department of Public Health; the
18 Department of Human Services; and the Department of Financial
19 and Professional Regulation.

20 The Inspector General shall have the authority to deny
21 payment, prevent overpayments, and recover overpayments.

22 The Inspector General shall have the authority to deny or
23 suspend payment to, and deny, terminate, or suspend the
24 eligibility of, any vendor who fails to grant the Inspector
25 General timely access to full and complete records, including
26 records of recipients under the medical assistance program for

1 the most recent 6 years, in accordance with Section 140.28 of
2 Title 89 of the Illinois Administrative Code, and other
3 information for the purpose of audits, investigations, or
4 other program integrity functions, after reasonable written
5 request by the Inspector General.

6 (d) The Inspector General shall serve as the Department of
7 Healthcare and Family Services' primary liaison with law
8 enforcement, investigatory and prosecutorial agencies,
9 including but not limited to the following:

10 (1) The Department of State Police.

11 (2) The Federal Bureau of Investigation and other
12 federal law enforcement agencies.

13 (3) The various Inspectors General of federal agencies
14 overseeing the programs administered by the Department of
15 Healthcare and Family Services.

16 (4) The various Inspectors General of any other State
17 agencies with responsibilities for portions of programs
18 primarily administered by the Department of Healthcare and
19 Family Services.

20 (5) The Offices of the several United States Attorneys
21 in Illinois.

22 (6) The several State's Attorneys.

23 (7) The offices of the Centers for Medicare and
24 Medicaid Services that administer the Medicare and
25 Medicaid integrity programs.

26 The Inspector General shall meet on a regular basis with

1 these entities to share information regarding possible
2 misconduct by any persons or entities involved with the public
3 aid programs administered by the Department of Healthcare and
4 Family Services.

5 Within 24 hours after determining that there is reasonable
6 suspicion to believe that a criminal act may have been
7 committed or that special expertise may be required in an
8 investigation, the Inspector General shall notify the
9 Department of State Police or other appropriate law
10 enforcement authority, or ensure that such notification is
11 made. The Department of State Police shall investigate any
12 report from a facility licensed, certified, or operated by the
13 Department of Healthcare and Family Services that indicates
14 that a possible criminal act relating to bribery, the unlawful
15 use or possession of a weapon, the bodily injury or immediate
16 threat of bodily injury to another, a narcotics-related
17 activity, a criminal sexual assault, or the death of another
18 person has been committed by a facility employee. All
19 investigations conducted by the Inspector General shall be
20 conducted in a manner designed to ensure the preservation of
21 evidence for possible use in a criminal prosecution.

22 (e) All investigations conducted by the Inspector General
23 shall be conducted in a manner that ensures the preservation
24 of evidence for use in criminal prosecutions. If the Inspector
25 General determines that a possible criminal act relating to
26 fraud in the provision or administration of the medical

1 assistance program has been committed, the Inspector General
2 shall immediately notify the Medicaid Fraud Control Unit. If
3 the Inspector General determines that a possible criminal act
4 has been committed within the jurisdiction of the Office, the
5 Inspector General may request the special expertise of the
6 Department of State Police. The Inspector General may present
7 for prosecution the findings of any criminal investigation to
8 the Office of the Attorney General, the Offices of the several
9 United States Attorneys in Illinois or the several State's
10 Attorneys.

11 (f) To carry out his or her duties as described in this
12 Section, the Inspector General and his or her designees shall
13 have the power to compel by subpoena the attendance and
14 testimony of witnesses and the production of books, electronic
15 records and papers as directly related to public assistance
16 programs administered by the Department of Healthcare and
17 Family Services or the Department of Human Services (as
18 successor to the Department of Public Aid). No medical
19 provider shall be compelled, however, to provide individual
20 medical records of patients who are not clients of the Medical
21 Assistance Program.

22 (g) The Inspector General shall report all convictions,
23 terminations, and suspensions taken against vendors,
24 contractors and medical providers to the Department of
25 Healthcare and Family Services and to any agency responsible
26 for licensing or regulating those persons or entities.

1 (h) The Inspector General shall make annual reports,
2 findings, and recommendations regarding the Office's
3 investigations into reports of fraud, waste, abuse,
4 mismanagement, or misconduct relating to any programs
5 administered by the Department of Healthcare and Family
6 Services or the Department of Human Services (as successor to
7 the Department of Public Aid) to the General Assembly and the
8 Governor. These reports shall include, but not be limited to,
9 the following information:

10 (1) Aggregate provider billing and payment
11 information, including the number of providers at various
12 Medicaid earning levels.

13 (2) The number of audits of the medical assistance
14 program and the dollar savings resulting from those
15 audits.

16 (3) The number of prescriptions rejected annually
17 under the Department of Healthcare and Family Services'
18 Refill Too Soon program and the dollar savings resulting
19 from that program.

20 (4) Provider sanctions, in the aggregate, including
21 terminations and suspensions.

22 (5) A detailed summary of the investigations
23 undertaken in the previous fiscal year. These summaries
24 shall comply with all laws and rules regarding maintaining
25 confidentiality in the public aid programs.

26 (i) Nothing in this Section shall limit investigations by

1 the Department of Healthcare and Family Services or the
2 Department of Human Services that may otherwise be required by
3 law or that may be necessary in their capacity as the central
4 administrative authorities responsible for administration of
5 their agency's programs in this State.

6 (j) The Inspector General may issue shields or other
7 distinctive identification to his or her employees not
8 exercising the powers of a peace officer if the Inspector
9 General determines that a shield or distinctive identification
10 is needed by an employee to carry out his or her
11 responsibilities.

12 (Source: P.A. 97-689, eff. 6-14-12; 98-8, eff. 5-3-13.)

13 Section 30. The Toll Highway Act is amended by changing
14 Section 8.5 as follows:

15 (605 ILCS 10/8.5)

16 Sec. 8.5. Toll Highway Inspector General.

17 (a) The Governor shall, with the advice and consent of the
18 Senate by three-fifths of the elected members concurring by
19 record vote, appoint a Toll Highway Inspector General for the
20 purpose of detection, deterrence, and prevention of fraud,
21 corruption, and mismanagement in the Authority. The Toll
22 Highway Inspector General shall serve a 5-year term. If,
23 during a recess of the Senate, there is a vacancy in the office
24 of the Toll Highway Inspector General, the Governor shall make

1 a temporary appointment until the next meeting of the Senate
2 when the Governor shall make a nomination to fill that office.
3 No person rejected for the office of the Toll Highway
4 Inspector General shall, except by the Senate's request, be
5 nominated again for that office at the same session of the
6 Senate or be appointed to that office during a recess of that
7 Senate. The Governor may not appoint a relative, as defined by
8 item (6) of Section 10-15 of the State Officials and Employees
9 Ethics Act, as the Toll Highway Inspector General. The Toll
10 Highway Inspector General may be removed only for cause and
11 may be removed only by the Governor.

12 (b) The Toll Highway Inspector General shall have the
13 following qualifications:

14 (1) has not been convicted of any felony under the
15 laws of this State, another state, or the United States;

16 (2) has earned a baccalaureate degree from an
17 institution of higher education; and

18 (3) has 5 or more years of cumulative service (i) with
19 a federal, state, or local law enforcement agency, at
20 least 2 years of which have been in a progressive
21 investigatory capacity; (ii) as a federal, state, or local
22 prosecutor; (iii) as a federal or state judge with a
23 criminal docket; (iv) as a senior manager or executive of
24 a federal, state, or local agency; or (v) representing any
25 combination of (i) through (iv).

26 (c) The term of the initial Toll Highway Inspector General

1 shall commence upon qualification and shall run through June
2 30, 2015. The initial appointments shall be made within 60
3 days after the effective date of this amendatory Act of the
4 96th General Assembly. After the initial term, each Toll
5 Highway Inspector General shall serve for 5-year terms
6 commencing on July 1 of the year of appointment and running
7 through June 30 of the fifth following year. A Toll Highway
8 Inspector General may be reappointed to one or more subsequent
9 terms. A vacancy occurring other than at the end of a term
10 shall be filled by the Governor only for the balance of the
11 term of the Toll Highway Inspector General whose office is
12 vacant. Terms shall run regardless of whether the position is
13 filled.

14 (d) The Toll Highway Inspector General shall have
15 jurisdiction over the Authority and all board members,
16 officers, and employees of, and vendors, subcontractors, and
17 others doing business with the Authority. The jurisdiction of
18 the Toll Highway Inspector General is to investigate
19 allegations of fraud, waste, abuse, mismanagement, misconduct,
20 nonfeasance, misfeasance, or malfeasance. Investigations may
21 be based on complaints from any source, including anonymous
22 sources, and may be self-initiated, without a complaint. An
23 investigation may not be initiated more than five years after
24 the most recent act of the alleged violation or of a series of
25 alleged violations except where there is reasonable cause to
26 believe that fraudulent concealment has occurred. To

1 constitute fraudulent concealment sufficient to toll this
2 limitations period, there must be an affirmative act or
3 representation calculated to prevent discovery of the fact
4 that a violation has occurred. The authority to investigate
5 alleged violations of the State Officials and Employees Ethics
6 Act by officers, employees, vendors, subcontractors, and
7 others doing business with the Authority shall remain with the
8 Office of the Governor's Executive Inspector General. The Toll
9 Highway Inspector General shall refer allegations of
10 misconduct under the State Officials and Employees Ethics Act
11 to the Office of the Governor's Executive Inspector General
12 for investigation. Upon completion of its investigation into
13 such allegations, the Office of the Governor's Executive
14 Inspector General shall report the results to the Toll Highway
15 Inspector General, and the results of the investigation shall
16 remain subject to any applicable confidentiality provisions in
17 the State Officials and Employees Ethics Act. Where an
18 investigation into a target or targets is split between
19 allegations of misconduct under the State Officials and
20 Employees Ethics Act, investigated by the Office of the
21 Governor's Executive Inspector General, and allegations that
22 are not of misconduct under the State Officials and Employees
23 Ethics Act, investigated by the Toll Highway Inspector
24 General, the Toll Highway Inspector General shall take
25 reasonable steps, including continued consultation with the
26 Office of the Governor's Executive Inspector General, to

1 ensure that its investigation will not interfere with or
2 disrupt any investigation by the Office of the Governor's
3 Executive Inspector General or law enforcement authorities. In
4 instances in which the Toll Highway Inspector General
5 continues to investigate other allegations associated with
6 allegations that have been referred to the Office of the
7 Governor's Executive Inspector General pursuant to this
8 subsection, the Toll Highway Inspector General shall report
9 the results of its investigation to the Office of the
10 Governor's Executive Inspector General.

11 (e)(1) If the Toll Highway Inspector General, upon the
12 conclusion of an investigation, determines that reasonable
13 cause exists to believe that fraud, waste, abuse,
14 mismanagement, misconduct, nonfeasance, misfeasance, or
15 malfeasance has occurred, then the Toll Highway Inspector
16 General shall issue a summary report of the investigation. The
17 report shall be delivered to the appropriate authority
18 pursuant to paragraph (3) of subsection (f) of this Section,
19 which shall have 20 days to respond to the report.

20 (2) The summary report of the investigation shall
21 include the following:

22 (A) a description of any allegations or other
23 information received by the Toll Highway Inspector
24 General pertinent to the investigation.

25 (B) a description of any alleged misconduct
26 discovered in the course of the investigation.

1 (C) recommendations for any corrective or
2 disciplinary action to be taken in response to any
3 alleged misconduct described in the report, including
4 but not limited to discharge.

5 (D) other information the Toll Highway Inspector
6 General deems relevant to the investigation or
7 resulting recommendations.

8 (3) Within 60 days after issuance of a final summary
9 report that resulted in a suspension of at least 3 days or
10 termination of employment, the Toll Highway Inspector
11 General shall make the report available to the public by
12 presenting the report to the Board of the Authority and by
13 posting to the Authority's public website. The Toll
14 Highway Inspector General shall redact information in the
15 summary report that may reveal the identity of witnesses,
16 complainants, or informants or if the Toll Highway
17 Inspector General determines it is appropriate to protect
18 the identity of a person before the report is made public.
19 The Toll Highway Inspector General may also redact any
20 information that he or she believes should not be made
21 public, taking into consideration the factors set forth in
22 this subsection and paragraph (1) of subsection (k) of
23 this Section and other factors deemed relevant by the Toll
24 Highway Inspector General to protect the Authority and any
25 investigations by the Toll Highway Inspector General,
26 other inspector general offices or law enforcement

1 agencies. Prior to publication, the Toll Highway Inspector
2 General shall permit the respondents and the appropriate
3 authority pursuant to paragraph (3) of subsection (f) of
4 this Section to review the report and the documents to be
5 made public and offer suggestions for redaction or provide
6 a response that shall be made public with the summary
7 report, provided, however, that the Toll Highway Inspector
8 General shall have the sole and final authority to decide
9 what redactions should be made. The Toll Highway Inspector
10 General may make available to the public any other summary
11 report and any such responses or a redacted version of the
12 report and responses.

13 (4) When the Toll Highway Inspector General concludes
14 that there is insufficient evidence that a violation has
15 occurred, the Toll Highway Inspector General shall close
16 the investigation. The Toll Highway Inspector General
17 shall provide the appropriate authority pursuant to
18 paragraph (3) of subsection (f) of this Section with a
19 written statement of the Toll Highway Inspector General's
20 decision to close the investigation. At the request of the
21 subject of the investigation, the Toll Highway Inspector
22 General shall provide a written statement to the subject
23 of the investigation of the Toll Highway Inspector
24 General's decision to close the investigation. Closure by
25 the Toll Highway Inspector General does not bar the Toll
26 Highway Inspector General from resuming the investigation

1 if circumstances warrant.

2 (f) The Toll Highway Inspector General shall:

3 (1) have access to all information and personnel
4 necessary to perform the duties of the office.

5 (2) have the power to subpoena witnesses and compel
6 the production of books and papers pertinent to an
7 investigation authorized by this Section. A subpoena may
8 be issued under this subparagraph (2) only by the Toll
9 Highway Inspector General and not by members of the Toll
10 Highway Inspector General's staff. Any person subpoenaed
11 by the Toll Highway Inspector General has the same rights,
12 under Illinois law, as a person subpoenaed by a grand
13 jury. The power to subpoena or to compel the production of
14 books and papers, however, shall not extend to the person
15 or documents of a labor organization or its
16 representatives insofar as the person or documents of a
17 labor organization relate to the function of representing
18 an employee subject to investigation under this Section.
19 Subject to a person's privilege against
20 self-incrimination, any person who fails to appear in
21 response to a subpoena, answer any question, or produce
22 any books or papers pertinent to an investigation under
23 this Section, except as otherwise provided in this
24 Section, or who knowingly gives false testimony in
25 relation to an investigation under this Section is guilty
26 of a Class A misdemeanor.

1 (3) submit reports as required by this Section and
2 applicable administrative rules. Final reports and
3 recommendations shall be submitted to the Authority's
4 Executive Director and the Board of Directors for
5 investigations not involving the Board. Final reports and
6 recommendations shall be submitted to the Chair of the
7 Board and to the Governor for investigations of any Board
8 member other than the Chair of the Board. Final reports
9 and recommendations for investigations of the Chair of the
10 Board shall be submitted to the Governor.

11 (4) assist and coordinate with the ethics officer for
12 the Authority.

13 (5) participate in or conduct, when appropriate,
14 multi-jurisdictional investigations provided the
15 investigation involves the Authority in some way,
16 including, but not limited to, joint investigations with
17 the Office of the Governor's Executive Inspector General,
18 or with State, local, or federal law enforcement
19 authorities.

20 (6) serve as the Authority's primary liaison with law
21 enforcement, investigatory, and prosecutorial agencies
22 and, in that capacity, the Toll Highway Inspector General
23 may request any information or assistance that may be
24 necessary for carrying out the duties and responsibilities
25 provided by this Section from any local, state, or federal
26 governmental agency or unit thereof.

1 (7) review hiring and employment files of the
2 Authority to ensure compliance with *Rutan v. Republican*
3 *Party of Illinois*, 497 U.S. 62 (1990), and with all
4 applicable employment laws.

5 (8) establish a policy that ensures the appropriate
6 handling and correct recording of all investigations
7 conducted by the Office, and ensures that the policy is
8 accessible via the Internet in order that those seeking to
9 report suspected wrongdoing are familiar with the process
10 and that the subjects of those allegations are treated
11 fairly.

12 (9) receive and investigate complaints or information
13 from an employee of the Authority concerning the possible
14 existence of an activity constituting a violation of law,
15 rules or regulations, mismanagement, abuse of authority,
16 or substantial and specific danger to the public health
17 and safety. Any employee of the Authority who knowingly
18 files a false complaint or files a complaint with reckless
19 disregard for the truth or falsity of the facts underlying
20 the complaint may be subject to discipline.

21 (10) review, coordinate, and recommend methods and
22 procedures to increase the integrity of the Authority.

23 (g) Within six months of appointment, the initial Toll
24 Highway Inspector General shall propose rules, in accordance
25 with the provisions of the Illinois Administrative Procedure
26 Act, establishing minimum requirements for initiating,

1 conducting, and completing investigations. The rules must
2 establish criteria for determining, based upon the nature of
3 the allegation, the appropriate method of investigation, which
4 may include, but is not limited to, site visits, telephone
5 contacts, personal interviews, or requests for written
6 responses. The rules must establish the process, contents, and
7 timing for final reports and recommendations by the Toll
8 Highway Inspector General and for a response and any remedial,
9 disciplinary, or both action by an individual or individuals
10 receiving the final reports and recommendations. The rules
11 must also clarify how the Office of the Toll Highway Inspector
12 General shall interact with other local, state, and federal
13 law enforcement authorities and investigations. Such rules
14 shall provide that investigations and inquiries by the Office
15 of the Toll Highway Inspector General must be conducted in
16 compliance with the provisions of any collective bargaining
17 agreement that applies to the affected employees of the
18 Authority and that any recommendation for discipline or other
19 action against any employee by the Office of the Toll Highway
20 Inspector General must comply with the provisions of any
21 applicable collective bargaining agreement.

22 (h) The Office of the Toll Highway Inspector General shall
23 be an independent office of the Authority. Within its annual
24 budget, the Authority shall provide a clearly delineated
25 budget for the Office of the Toll Highway Inspector General.
26 The budget of the Office of the Toll Highway Inspector General

1 shall be adequate to support an independent and effective
2 office. Except with the consent of the Toll Highway Inspector
3 General, the Authority shall not reduce the budget of the
4 Office of the Toll Highway Inspector General by more than 10
5 percent (i) within any fiscal year or (ii) over the five-year
6 term of each Toll Highway Inspector General. To the extent
7 allowed by law and the Authority's policies, the Toll Highway
8 Inspector General shall have sole responsibility for
9 organizing the Office of the Toll Highway Inspector General
10 within the budget established by the Toll Highway Board,
11 including the recruitment, supervision, and discipline of the
12 employees of that office. The Toll Highway Inspector General
13 shall report directly to the Board of Directors of the
14 Authority with respect to the prompt and efficient operation
15 of the Office of the Tollway Highway Inspector General.

16 (i)(1) No Toll Highway Inspector General or employee of
17 the Office of the Toll Highway Inspector General may, during
18 his or her term of appointment or employment:

19 (A) become a candidate for any elective office;

20 (B) hold any other elected or appointed public office
21 except for appointments on governmental advisory boards or
22 study commissions or as otherwise expressly authorized by
23 law;

24 (C) be actively involved in the affairs of any
25 political party or political organization; or

26 (D) advocate for the appointment of another person to

1 an appointed public office or elected office or position
2 or actively participate in any campaign for any elective
3 office. As used in this paragraph (1), "appointed public
4 office" means a position authorized by law that is filled
5 by an appointing authority as provided by law and does not
6 include employment by hiring in the ordinary course of
7 business.

8 (2) No Toll Inspector General or employee of the Office of
9 the Toll Highway Inspector General may, for one year after the
10 termination of his or her appointment or employment:

11 (A) become a candidate for any elective office;

12 (B) hold any elected public office; or

13 (C) hold any appointed State, county, or local
14 judicial office.

15 (3) The requirements of subparagraph (C) of paragraph (2)
16 of this subsection may be waived by the Executive Ethics
17 Commission.

18 (j) All Board members, officers and employees of the
19 Authority have a duty to cooperate with the Toll Highway
20 Inspector General and employees of the Office of the Toll
21 Highway Inspector General in any investigation undertaken
22 pursuant to this Section. Failure to cooperate includes, but
23 is not limited to, intentional omissions and knowing false
24 statements. Failure to cooperate with an investigation
25 pursuant to this Section is grounds for disciplinary action,
26 including termination of employment. Nothing in this Section

1 limits or alters a person's existing rights or protections
2 under State or federal law.

3 (k) (1) The identity of any individual providing
4 information or reporting any possible or alleged misconduct to
5 the Toll Highway Inspector General shall be kept confidential
6 and may not be disclosed without the consent of that
7 individual, unless the individual consents to disclosure of
8 his or her name or disclosure of the individual's identity is
9 otherwise required by law. The confidentiality granted by this
10 subsection does not preclude the disclosure of the identity of
11 a person in any capacity other than as the source of an
12 allegation.

13 (2) Subject to the provisions of subsection (e) of this
14 Section, the Toll Highway Inspector General, and employees and
15 agents of the Office of the Toll Highway Inspector General,
16 shall keep confidential and shall not disclose information
17 exempted from disclosure under the Freedom of Information Act
18 or by this Act.

19 (l) If the Toll Highway Inspector General determines that
20 any alleged misconduct involves any person not subject to the
21 jurisdiction of the Toll Highway Inspector General, the Toll
22 Highway Inspector General shall refer the reported allegations
23 to the appropriate Inspector General, appropriate ethics
24 commission or other appropriate body. If the Toll Highway
25 Inspector General determines that any alleged misconduct may
26 give rise to criminal penalties, the Toll Highway Inspector

1 General may refer the allegations regarding that misconduct to
2 the appropriate law enforcement authority. If a Toll Highway
3 Inspector General determines that any alleged misconduct
4 resulted in the loss of public funds in an amount of \$5,000 or
5 greater, the Toll Highway Inspector General shall refer the
6 allegations regarding that misconduct to the Attorney General
7 and any other appropriate law enforcement authority.

8 (1-5) Within 24 hours after determining that there is
9 reasonable suspicion to believe that a criminal act may have
10 been committed or that special expertise may be required in an
11 investigation, the Inspector General shall notify the
12 Department of State Police or other appropriate law
13 enforcement authority, or ensure that such notification is
14 made. The Department of State Police shall investigate any
15 report from the Toll Highway Inspector General that indicates
16 that a possible criminal act relating to bribery, the unlawful
17 use or possession of a weapon, the bodily injury or immediate
18 threat of bodily injury to another, a narcotics-related
19 activity, a criminal sexual assault, or the death of another
20 person has been committed by any board member, officer, or
21 employee of, or any vendor, subcontractor, or person doing
22 business with the Authority. All investigations conducted by
23 the Inspector General shall be conducted in a manner designed
24 to ensure the preservation of evidence for possible use in a
25 criminal prosecution.

26 (m) The Toll Highway Inspector General shall provide to

1 the Governor, the Board of the Authority, and the General
2 Assembly a summary of reports and investigations made under
3 this Section no later than March 31 and September 30 of each
4 year. The summaries shall detail the final disposition of the
5 Inspector General's recommendations. The summaries shall not
6 contain any confidential or identifying information concerning
7 the subjects of the reports and investigations. The summaries
8 shall also include detailed, recommended administrative
9 actions and matters for consideration by the Governor, the
10 Board of the Authority, and the General Assembly.

11 (n) Any employee of the Authority subject to investigation
12 or inquiry by the Toll Highway Inspector General or any agent
13 or representative of the Toll Highway Inspector General
14 concerning misconduct that is criminal in nature shall have
15 the right to be notified of the right to remain silent during
16 the investigation or inquiry and the right to be represented
17 in the investigation or inquiry by an attorney or a
18 representative of a labor organization that is the exclusive
19 collective bargaining representative of employees of the
20 Authority. Any investigation or inquiry by the Toll Highway
21 Inspector General or any agent or representative of the Toll
22 Highway Inspector General must be conducted in accordance with
23 the rights of the employees as set forth in State and federal
24 law and applicable judicial decisions. Any recommendations for
25 discipline or any action taken against any employee by the
26 Toll Highway Inspector General or any representative or agent

1 of the Toll Highway Inspector General must comply with the
2 provisions of the collective bargaining agreement that applies
3 to the employee.

4 (o) Nothing in this Section shall diminish the rights,
5 privileges, or remedies of a State employee under any other
6 federal or State law, rule, or regulation or under any
7 collective bargaining agreement.

8 (Source: P.A. 96-1347, eff. 1-1-11.)