



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB4025

Introduced 1/21/2022, by Sen. Rachelle Crowe

SYNOPSIS AS INTRODUCED:

20 ILCS 1305/1-17

Amends the Department of Human Services Act. In a provision concerning Inspector General reports to the Department of Public Health's Health Care Worker Registry, requires the Inspector General to report the identity and finding of each employee of a facility or agency against whom there is a final investigative report prepared by the Inspector General that contains a substantiated allegation of physical or sexual abuse, financial exploitation, or egregious neglect of an individual, unless the Inspector General requests a stipulated disposition of the investigative report that does not include the reporting of the employee's name to the Health Care Worker Registry and the Secretary of Human Services agrees with the requested stipulated disposition. Effective immediately.

LRB102 23065 KTG 32221 b

1 AN ACT concerning State government.

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

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

6 (20 ILCS 1305/1-17)

7 Sec. 1-17. Inspector General.

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

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

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

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

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

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

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

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

25 "Deflection" means a situation in which an individual is
26 presented for admission to a facility or agency, and the

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

4 "Department" means the Department of Human Services.

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

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

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

25 "Facility" or "State-operated facility" means a mental
26 health facility or developmental disabilities facility

1 operated by the Department.

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

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

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

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

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

21 "Mental illness" means "mental illness" as defined in the
22 Mental Health and Developmental Disabilities Code.

23 "Mentally ill" means having a mental illness.

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

1 the severity of the conduct, the culpability of the accused,
2 or both the severity of the conduct and the culpability of the
3 accused.

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

12 "Person with a developmental disability" means a person
13 having a developmental disability.

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

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

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

1 "Secretary" means the Chief Administrative Officer of the
2 Department.

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

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

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

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

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

1 allegation.

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

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

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

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

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

24 (g) Rulemaking authority. The Inspector General shall
25 promulgate rules establishing minimum requirements for
26 reporting allegations as well as for initiating, conducting,

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

13 (h) Training programs. The Inspector General shall (i)
14 establish a comprehensive program to ensure that every person
15 authorized to conduct investigations receives ongoing training
16 relative to investigation techniques, communication skills,
17 and the appropriate means of interacting with persons
18 receiving treatment for mental illness, developmental
19 disability, or both mental illness and developmental
20 disability, and (ii) establish and conduct periodic training
21 programs for facility and agency employees concerning the
22 prevention and reporting of any one or more of the following:
23 mental abuse, physical abuse, sexual abuse, neglect, egregious
24 neglect, or financial exploitation. The Inspector General
25 shall further ensure (i) every person authorized to conduct
26 investigations at community agencies receives ongoing training

1 in Title 59, Parts 115, 116, and 119 of the Illinois
2 Administrative Code, and (ii) every person authorized to
3 conduct investigations shall receive ongoing training in Title
4 59, Part 50 of the Illinois Administrative Code. Nothing in
5 this Section shall be deemed to prevent the Office of
6 Inspector General from conducting any other training as
7 determined by the Inspector General to be necessary or
8 helpful.

9 (i) Duty to cooperate.

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

22 (2) Any employee who fails to cooperate with an Office
23 of the Inspector General investigation is in violation of
24 this Act. Failure to cooperate with an investigation
25 includes, but is not limited to, any one or more of the
26 following: (i) creating and transmitting a false report to

1 the Office of the Inspector General hotline, (ii)
2 providing false information to an Office of the Inspector
3 General Investigator during an investigation, (iii)
4 colluding with other employees to cover up evidence, (iv)
5 colluding with other employees to provide false
6 information to an Office of the Inspector General
7 investigator, (v) destroying evidence, (vi) withholding
8 evidence, or (vii) otherwise obstructing an Office of the
9 Inspector General investigation. Additionally, any
10 employee who, during an unannounced site visit or written
11 response compliance check, fails to cooperate with
12 requests from the Office of the Inspector General is in
13 violation of this Act.

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

1 (k) Reporting allegations and deaths.

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

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

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

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

26 (iii) Any other death of an individual occurring

1 at an agency or facility or at any Department-funded
2 site.

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

8 (1) Reporting to law enforcement.

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

22 (2) Reporting allegations of adult students with
23 disabilities. Upon receipt of a reportable allegation
24 regarding an adult student with a disability, the
25 Department's Office of the Inspector General shall
26 determine whether the allegation meets the criteria for

1 the Domestic Abuse Program under the Abuse of Adults with
2 Disabilities Intervention Act. If the allegation is
3 reportable to that program, the Office of the Inspector
4 General shall initiate an investigation. If the allegation
5 is not reportable to the Domestic Abuse Program, the
6 Office of the Inspector General shall make an expeditious
7 referral to the respective law enforcement entity. If the
8 alleged victim is already receiving services from the
9 Department, the Office of the Inspector General shall also
10 make a referral to the respective Department of Human
11 Services' Division or Bureau.

12 (m) Investigative reports. Upon completion of an
13 investigation, the Office of Inspector General shall issue an
14 investigative report identifying whether the allegations are
15 substantiated, unsubstantiated, or unfounded. Within 10
16 business days after the transmittal of a completed
17 investigative report substantiating an allegation, finding an
18 allegation is unsubstantiated, or if a recommendation is made,
19 the Inspector General shall provide the investigative report
20 on the case to the Secretary and to the director of the
21 facility or agency where any one or more of the following
22 occurred: mental abuse, physical abuse, sexual abuse, neglect,
23 egregious neglect, or financial exploitation. The director of
24 the facility or agency shall be responsible for maintaining
25 the confidentiality of the investigative report consistent
26 with State and federal law. In a substantiated case, the

1 investigative report shall include any mitigating or
2 aggravating circumstances that were identified during the
3 investigation. If the case involves substantiated neglect, the
4 investigative report shall also state whether egregious
5 neglect was found. An investigative report may also set forth
6 recommendations. All investigative reports prepared by the
7 Office of the Inspector General shall be considered
8 confidential and shall not be released except as provided by
9 the law of this State or as required under applicable federal
10 law. Unsubstantiated and unfounded reports shall not be
11 disclosed except as allowed under Section 6 of the Abused and
12 Neglected Long Term Care Facility Residents Reporting Act. Raw
13 data used to compile the investigative report shall not be
14 subject to release unless required by law or a court order.
15 "Raw data used to compile the investigative report" includes,
16 but is not limited to, any one or more of the following: the
17 initial complaint, witness statements, photographs,
18 investigator's notes, police reports, or incident reports. If
19 the allegations are substantiated, the victim, the victim's
20 guardian, and the accused shall be provided with a redacted
21 copy of the investigative report. Death reports where there
22 was no allegation of abuse or neglect shall only be released
23 pursuant to applicable State or federal law or a valid court
24 order. Unredacted investigative reports, as well as raw data,
25 may be shared with a local law enforcement entity, a State's
26 Attorney's office, or a county coroner's office upon written

1 request.

2 (n) Written responses, clarification requests, and
3 reconsideration requests.

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

16 (2) Requests for clarification. The facility, agency,
17 victim or guardian, or the subject employee may request
18 that the Office of Inspector General clarify the finding
19 or findings for which clarification is sought.

20 (3) Requests for reconsideration. The facility,
21 agency, victim or guardian, or the subject employee may
22 request that the Office of the Inspector General
23 reconsider the finding or findings or the recommendations.
24 A request for reconsideration shall be subject to a
25 multi-layer review and shall include at least one reviewer
26 who did not participate in the investigation or approval

1 of the original investigative report. After the
2 multi-layer review process has been completed, the
3 Inspector General shall make the final determination on
4 the reconsideration request. The investigation shall be
5 reopened if the reconsideration determination finds that
6 additional information is needed to complete the
7 investigative record.

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

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

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

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

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

24 (1) Appointment of on-site monitors.

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

1 (3) Closure of units.

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

3 (i) Department licensing, (ii) funding, or (iii)
4 certification.

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

8 (s) Health Care Worker Registry.

9 (1) Reporting to the Registry. The Inspector General
10 shall report to the Department of Public Health's Health
11 Care Worker Registry, a public registry, the identity and
12 finding of each employee of a facility or agency against
13 whom there is a final investigative report prepared by the
14 Office of the Inspector General containing a substantiated
15 allegation of physical or sexual abuse, financial
16 exploitation, or egregious neglect of an individual,
17 unless the Inspector General requests a stipulated
18 disposition of the investigative report that does not
19 include the reporting of the employee's name to the Health
20 Care Worker Registry and the Secretary of Human Services
21 agrees with the requested stipulated disposition.

22 (2) Notice to employee. Prior to reporting the name of
23 an employee, the employee shall be notified of the
24 Department's obligation to report and shall be granted an
25 opportunity to request an administrative hearing, the sole
26 purpose of which is to determine if the substantiated

1 finding warrants reporting to the Registry. Notice to the
2 employee shall contain a clear and concise statement of
3 the grounds on which the report to the Registry is based,
4 offer the employee an opportunity for a hearing, and
5 identify the process for requesting such a hearing. Notice
6 is sufficient if provided by certified mail to the
7 employee's last known address. If the employee fails to
8 request a hearing within 30 days from the date of the
9 notice, the Inspector General shall report the name of the
10 employee to the Registry. Nothing in this subdivision
11 (s)(2) shall diminish or impair the rights of a person who
12 is a member of a collective bargaining unit under the
13 Illinois Public Labor Relations Act or under any other
14 federal labor statute.

15 (3) Registry hearings. If the employee requests an
16 administrative hearing, the employee shall be granted an
17 opportunity to appear before an administrative law judge
18 to present reasons why the employee's name should not be
19 reported to the Registry. The Department shall bear the
20 burden of presenting evidence that establishes, by a
21 preponderance of the evidence, that the substantiated
22 finding warrants reporting to the Registry. After
23 considering all the evidence presented, the administrative
24 law judge shall make a recommendation to the Secretary as
25 to whether the substantiated finding warrants reporting
26 the name of the employee to the Registry. The Secretary

1 shall render the final decision. The Department and the
2 employee shall have the right to request that the
3 administrative law judge consider a stipulated disposition
4 of these proceedings.

5 (4) Testimony at Registry hearings. A person who makes
6 a report or who investigates a report under this Act shall
7 testify fully in any judicial proceeding resulting from
8 such a report, as to any evidence of abuse or neglect, or
9 the cause thereof. No evidence shall be excluded by reason
10 of any common law or statutory privilege relating to
11 communications between the alleged perpetrator of abuse or
12 neglect, or the individual alleged as the victim in the
13 report, and the person making or investigating the report.
14 Testimony at hearings is exempt from the confidentiality
15 requirements of subsection (f) of Section 10 of the Mental
16 Health and Developmental Disabilities Confidentiality Act.

17 (5) Employee's rights to collateral action. No
18 reporting to the Registry shall occur and no hearing shall
19 be set or proceed if an employee notifies the Inspector
20 General in writing, including any supporting
21 documentation, that he or she is formally contesting an
22 adverse employment action resulting from a substantiated
23 finding by complaint filed with the Illinois Civil Service
24 Commission, or which otherwise seeks to enforce the
25 employee's rights pursuant to any applicable collective
26 bargaining agreement. If an action taken by an employer

1 against an employee as a result of a finding of physical
2 abuse, sexual abuse, or egregious neglect is overturned
3 through an action filed with the Illinois Civil Service
4 Commission or under any applicable collective bargaining
5 agreement and if that employee's name has already been
6 sent to the Registry, the employee's name shall be removed
7 from the Registry.

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

22 (t) Review of Administrative Decisions. The Department
23 shall preserve a record of all proceedings at any formal
24 hearing conducted by the Department involving Health Care
25 Worker Registry hearings. Final administrative decisions of
26 the Department are subject to judicial review pursuant to

1 provisions of the Administrative Review Law.

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

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

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

1 necessary to govern its own procedures.

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

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

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

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

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

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

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

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

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

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

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

11 (Source: P.A. 101-81, eff. 7-12-19; 102-538, eff. 8-20-21.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.