



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4026

Introduced 3/28/2023, by Rep. Lindsey LaPointe - Charles Meier
- Suzanne M. Ness

SYNOPSIS AS INTRODUCED:

20 ILCS 1305/1-17
20 ILCS 1705/7.3
225 ILCS 46/25

Provides that the Act may be referred to as the Residential Facility Safety and Support Act. Amends the Department of Human Services Act. In provisions concerning investigative reports issued by the Department of Human Services' Inspector General that pertain to allegations of resident abuse or neglect at State-operated mental health facilities, expands the list of reportable conduct to include material obstruction of an investigation by a facility employee. Requires the Inspector General to report to the Department of Public Health's Health Care Worker Registry, the identity and finding of each employee of a facility or agency against whom there is a final investigative report prepared by the Office of the Inspector General containing a substantiated allegation of material obstruction of an investigation. Defines "material obstruction of an investigation" and "presenting untruthful information". Amends the Mental Health and Developmental Disabilities Administrative Act. Prohibits mental health facilities or agencies that are licensed, certified, operated, or funded by the Department of Human Services from employing any person identified by the Health Care Worker Registry as having been the subject of a substantiated finding of physical abuse, sexual abuse, financial exploitation, egregious neglect, or material obstruction of an investigation (rather than abuse or neglect of a service recipient). Amends the Health Care Worker Background Check Act. Prohibits health care employers from hiring or retaining any individual in a position with duties involving direct care of clients, patients, or residents who has a finding by the Department of Human Services denoted on the Health Care Worker Registry of material obstruction of an investigation. Effective immediately.

LRB103 31581 KTG 59813 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 1. This Act may be referred to as the Residential
5 Facility Safety and Support Act.

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

8 (20 ILCS 1305/1-17)

9 Sec. 1-17. Inspector General.

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

1 (b) Definitions. The following definitions apply to this
2 Section:

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

12 "Aggravating circumstance" means a factor that is
13 attendant to a finding and that tends to compound or increase
14 the culpability of the accused.

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

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

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

24 "Deflection" includes triage, redirection, and denial of
25 admission.

26 "Department" means the Department of Human Services.

1 "Developmental disability" means "developmental
2 disability" as defined in the Mental Health and Developmental
3 Disabilities Code.

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

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

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

24 "Financial exploitation" means taking unjust advantage of
25 an individual's assets, property, or financial resources
26 through deception, intimidation, or conversion for the

1 employee's, facility's, or agency's own advantage or benefit.

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

5 "Health Care Worker Registry" or "Registry" means the
6 Health Care Worker Registry under the Health Care Worker
7 Background Check Act.

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

11 "Material obstruction of an investigation" means the
12 purposeful interference with an investigation of physical
13 abuse, sexual abuse, mental abuse, neglect, or financial
14 exploitation and includes, but is not limited to, the
15 withholding or altering of documentation or recorded evidence;
16 influencing, threatening, or impeding witness testimony;
17 presenting untruthful information during an interview; failing
18 to cooperate with an investigation conducted by the Office of
19 the Inspector General. If an employee, following a criminal
20 investigation of physical abuse, sexual abuse, mental abuse,
21 neglect, or financial exploitation, is convicted of an offense
22 that is factually predicated on the employee presenting
23 untruthful information during the course of the investigation,
24 that offense constitutes obstruction of an investigation.
25 Obstruction of an investigation does not include: an
26 employee's lawful exercising of his or her constitutional

1 right against self-incrimination, an employee invoking his or
2 her lawful rights to union representation as provided by a
3 collective bargaining agreement or the Illinois Public Labor
4 Relations Act, or a union representative's lawful activities
5 providing representation under a collective bargaining
6 agreement or the Illinois Public Labor Relations Act.
7 Obstruction of an investigation is considered material when it
8 could significantly impair an investigator's ability to gather
9 all relevant facts. An employee shall not be placed on the
10 Health Care Worker Registry for presenting untruthful
11 information during an interview conducted by the Office of the
12 Inspector General, unless, prior to the interview, the
13 employee was provided with any previous signed statements he
14 or she made during the course of the investigation.

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 "Presenting untruthful information" means making a false
20 statement, material to an investigation of physical abuse,
21 sexual abuse, mental abuse, neglect, or financial
22 exploitation, knowing the statement is false.

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

1 "Required reporter" means any employee who suspects,
2 witnesses, or is informed of an allegation of any one or more
3 of the following: mental abuse, physical abuse, sexual abuse,
4 neglect, or financial exploitation.

5 "Secretary" means the Chief Administrative Officer of the
6 Department.

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

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

25 "Substantiated" means there is a preponderance of the
26 evidence to support the allegation.

1 "Unfounded" means there is no credible evidence to support
2 the allegation.

3 "Unsubstantiated" means there is credible evidence, but
4 less than a preponderance of evidence to support the
5 allegation.

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

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

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

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

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

1 disabilities facilities.

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

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

1 mental abuse, physical abuse, sexual abuse, neglect, egregious
2 neglect, or financial exploitation. The Inspector General
3 shall further ensure (i) every person authorized to conduct
4 investigations at community agencies receives ongoing training
5 in Title 59, Parts 115, 116, and 119 of the Illinois
6 Administrative Code, and (ii) every person authorized to
7 conduct investigations shall receive ongoing training in Title
8 59, Part 50 of the Illinois Administrative Code. Nothing in
9 this Section shall be deemed to prevent the Office of
10 Inspector General from conducting any other training as
11 determined by the Inspector General to be necessary or
12 helpful.

13 (i) Duty to cooperate.

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

26 (2) Any employee who fails to cooperate with an Office

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

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

1 otherwise fails to respond to a subpoena or who knowingly
2 provides false information to the Office of the Inspector
3 General by subpoena during an investigation is guilty of a
4 Class A misdemeanor.

5 (k) Reporting allegations and deaths.

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

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

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

1 (ii) Any death of an individual occurring within
2 24 hours after deflection from a residential program
3 or facility.

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

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

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

25 (m) Investigative reports. Upon completion of an
26 investigation, the Office of Inspector General shall issue an

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

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

16 (n) Written responses, clarification requests, and
17 reconsideration requests.

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

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

4 (2) Requests for clarification. The facility, agency,
5 victim or guardian, or the subject employee may request
6 that the Office of Inspector General clarify the finding
7 or findings for which clarification is sought.

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

22 (o) Disclosure of the finding by the Inspector General.
23 The Inspector General shall disclose the finding of an
24 investigation to the following persons: (i) the Governor, (ii)
25 the Secretary, (iii) the director of the facility or agency,
26 (iv) the alleged victims and their guardians, (v) the

1 complainant, and (vi) the accused. This information shall
2 include whether the allegations were deemed substantiated,
3 unsubstantiated, or unfounded.

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

14 (q) Action by facility or agency. Within 30 days of the
15 date the Secretary approves the written response or directs
16 that further administrative action be taken, the facility or
17 agency shall provide an implementation report to the Inspector
18 General that provides the status of the action taken. The
19 facility or agency shall be allowed an additional 30 days to
20 send notice of completion of the action or to send an updated
21 implementation report. If the action has not been completed
22 within the additional 30-day period, the facility or agency
23 shall send updated implementation reports every 60 days until
24 completion. The Inspector General shall conduct a review of
25 any implementation plan that takes more than 120 days after
26 approval to complete, and shall monitor compliance through a

1 random review of approved written responses, which may
2 include, but are not limited to: (i) site visits, (ii)
3 telephone contact, and (iii) requests for additional
4 documentation evidencing compliance.

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

12 (1) Appointment of on-site monitors.

13 (2) Transfer or relocation of an individual or
14 individuals.

15 (3) Closure of units.

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

17 (i) Department licensing, (ii) funding, or (iii)
18 certification.

19 The Inspector General may seek the assistance of the
20 Illinois Attorney General or the office of any State's
21 Attorney in implementing sanctions.

22 (s) Health Care Worker Registry.

23 (1) Reporting to the Registry. The Inspector General
24 shall report to the Department of Public Health's Health
25 Care Worker Registry, a public registry, the identity and
26 finding of each employee of a facility or agency against

1 whom there is a final investigative report prepared by the
2 Office of the Inspector General containing a substantiated
3 allegation of physical or sexual abuse, financial
4 exploitation, ~~or~~ egregious neglect of an individual, or
5 material obstruction of an investigation, unless the
6 Inspector General requests a stipulated disposition of the
7 investigative report that does not include the reporting
8 of the employee's name to the Health Care Worker Registry
9 and the Secretary of Human Services agrees with the
10 requested stipulated disposition.

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

1 is a member of a collective bargaining unit under the
2 Illinois Public Labor Relations Act or under any other
3 federal labor statute.

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

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

1 neglect, or the individual alleged as the victim in the
2 report, and the person making or investigating the report.
3 Testimony at hearings is exempt from the confidentiality
4 requirements of subsection (f) of Section 10 of the Mental
5 Health and Developmental Disabilities Confidentiality Act.

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

23 (6) Removal from Registry. At any time after the
24 report to the Registry, but no more than once in any
25 12-month period, an employee may petition the Department
26 in writing to remove his or her name from the Registry.

1 Upon receiving notice of such request, the Inspector
2 General shall conduct an investigation into the petition.

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

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

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

1 the Governor shall appoint a successor for the remainder of
2 the unexpired term.

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

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

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

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

26 (2) Review existing regulations relating to the

1 operation of facilities.

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

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

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

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

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

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

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

1 102-883, eff. 5-13-22; 102-1071, eff. 6-10-22; revised
2 7-26-22.)

3 Section 10. The Mental Health and Developmental
4 Disabilities Administrative Act is amended by changing Section
5 7.3 as follows:

6 (20 ILCS 1705/7.3)

7 Sec. 7.3. Health Care Worker Registry; ~~finding of abuse or~~
8 ~~neglect~~. The Department shall require that no facility,
9 service agency, or support agency providing mental health or
10 developmental disability services that is licensed, certified,
11 operated, or funded by the Department shall employ a person,
12 in any capacity, who is identified by the Health Care Worker
13 Registry as having been the subject of a substantiated finding
14 of physical abuse, sexual abuse, financial exploitation,
15 egregious neglect, or material obstruction of an investigation
16 ~~abuse or neglect of a service recipient~~. Any owner or operator
17 of a community agency who is identified by the Health Care
18 Worker Registry as having been the subject of a substantiated
19 finding of physical abuse, sexual abuse, financial
20 exploitation, egregious neglect, or material obstruction of an
21 investigation ~~abuse or neglect of a service recipient~~ is
22 prohibited from any involvement in any capacity with the
23 provision of Department funded mental health or developmental
24 disability services. The Department shall establish and

1 maintain the rules that are necessary or appropriate to
2 effectuate the intent of this Section. The provisions of this
3 Section shall not apply to any facility, service agency, or
4 support agency licensed or certified by a State agency other
5 than the Department, unless operated by the Department of
6 Human Services.

7 (Source: P.A. 100-432, eff. 8-25-17.)

8 Section 15. The Health Care Worker Background Check Act is
9 amended by changing Section 25 as follows:

10 (225 ILCS 46/25)

11 Sec. 25. Hiring of people with criminal records by health
12 care employers and long-term care facilities.

13 (a) A health care employer or long-term care facility may
14 hire, employ, or retain any individual in a position involving
15 direct care for clients, patients, or residents, or access to
16 the living quarters or the financial, medical, or personal
17 records of clients, patients, or residents who has been
18 convicted of committing or attempting to commit one or more of
19 the following offenses only with a waiver described in Section
20 40: those defined in Sections 8-1(b), 8-1.1, 8-1.2, 9-1,
21 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 9-3.4, 10-1,
22 10-2, 10-3, 10-3.1, 10-4, 10-5, 10-7, 11-1.20, 11-1.30,
23 11-1.40, 11-1.50, 11-1.60, 11-6, 11-9.1, 11-9.2, 11-9.3,
24 11-9.4-1, 11-9.5, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-1,

1 12-2, 12-3.05, 12-3.1, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2,
2 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13,
3 12-14, 12-14.1, 12-15, 12-16, 12-19, 12-20.5, 12-21, 12-21.5,
4 12-21.6, 12-32, 12-33, 12C-5, 12C-10, 16-1, 16-1.3, 16-25,
5 16A-3, 17-3, 17-56, 18-1, 18-2, 18-3, 18-4, 18-5, 19-1, 19-3,
6 19-4, 19-6, 20-1, 20-1.1, 24-1, 24-1.2, 24-1.5, 24-1.8,
7 24-3.8, or 33A-2, or subdivision (a) (4) of Section 11-14.4, or
8 in subsection (a) of Section 12-3 or subsection (a) or (b) of
9 Section 12-4.4a, of the Criminal Code of 1961 or the Criminal
10 Code of 2012; those provided in Section 4 of the Wrongs to
11 Children Act; those provided in Section 53 of the Criminal
12 Jurisprudence Act; those defined in subsection (c), (d), (e),
13 (f), or (g) of Section 5 or Section 5.1, 5.2, 7, or 9 of the
14 Cannabis Control Act; those defined in the Methamphetamine
15 Control and Community Protection Act; those defined in
16 Sections 401, 401.1, 404, 405, 405.1, 407, or 407.1 of the
17 Illinois Controlled Substances Act; or subsection (a) of
18 Section 3.01, Section 3.02, or Section 3.03 of the Humane Care
19 for Animals Act.

20 (a-1) A health care employer or long-term care facility
21 may hire, employ, or retain any individual in a position
22 involving direct care for clients, patients, or residents, or
23 access to the living quarters or the financial, medical, or
24 personal records of clients, patients, or residents who has
25 been convicted of committing or attempting to commit one or
26 more of the following offenses only with a waiver described in

1 Section 40: those offenses defined in Section 12-3.3,
2 12-4.2-5, 16-2, 16-30, 16G-15, 16G-20, 17-33, 17-34, 17-36,
3 17-44, 18-5, 20-1.2, 24-1.1, 24-1.2-5, 24-1.6, 24-3.2, or
4 24-3.3, or subsection (b) of Section 17-32, subsection (b) of
5 Section 18-1, or subsection (b) of Section 20-1, of the
6 Criminal Code of 1961 or the Criminal Code of 2012; Section 4,
7 5, 6, 8, or 17.02 of the Illinois Credit Card and Debit Card
8 Act; or Section 11-9.1A of the Criminal Code of 1961 or the
9 Criminal Code of 2012 or Section 5.1 of the Wrongs to Children
10 Act; or (ii) violated Section 50-50 of the Nurse Practice Act.

11 A health care employer is not required to retain an
12 individual in a position with duties involving direct care for
13 clients, patients, or residents, and no long-term care
14 facility is required to retain an individual in a position
15 with duties that involve or may involve contact with residents
16 or access to the living quarters or the financial, medical, or
17 personal records of residents, who has been convicted of
18 committing or attempting to commit one or more of the offenses
19 enumerated in this subsection.

20 (b) A health care employer shall not hire, employ, or
21 retain, whether paid or on a volunteer basis, any individual
22 in a position with duties involving direct care of clients,
23 patients, or residents, and no long-term care facility shall
24 knowingly hire, employ, or retain, whether paid or on a
25 volunteer basis, any individual in a position with duties that
26 involve or may involve contact with residents or access to the

1 living quarters or the financial, medical, or personal records
2 of residents, if the health care employer becomes aware that
3 the individual has been convicted in another state of
4 committing or attempting to commit an offense that has the
5 same or similar elements as an offense listed in subsection
6 (a) or (a-1), as verified by court records, records from a
7 state agency, or an FBI criminal history record check, unless
8 the applicant or employee obtains a waiver pursuant to Section
9 40 of this Act. This shall not be construed to mean that a
10 health care employer has an obligation to conduct a criminal
11 history records check in other states in which an employee has
12 resided.

13 (c) A health care employer shall not hire, employ, or
14 retain, whether paid or on a volunteer basis, any individual
15 in a position with duties involving direct care of clients,
16 patients, or residents, who has a finding by the Department of
17 abuse, neglect, misappropriation of property, or theft denoted
18 on the Health Care Worker Registry.

19 (d) A health care employer shall not hire, employ, or
20 retain, whether paid or on a volunteer basis, any individual
21 in a position with duties involving direct care of clients,
22 patients, or residents if the individual has a verified and
23 substantiated finding of abuse, neglect, or financial
24 exploitation, as identified within the Adult Protective
25 Service Registry established under Section 7.5 of the Adult
26 Protective Services Act.

1 (e) A health care employer shall not hire, employ, or
2 retain, whether paid or on a volunteer basis, any individual
3 in a position with duties involving direct care of clients,
4 patients, or residents who has a finding by the Department of
5 Human Services denoted on the Health Care Worker Registry of
6 physical or sexual abuse, financial exploitation, ~~or~~ egregious
7 neglect, or material obstruction of an investigation ~~of an~~
8 ~~individual denoted on the Health Care Worker Registry.~~

9 (Source: P.A. 99-872, eff. 1-1-17; 100-432, eff. 8-25-17.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.