



Sen. Dale Fowler

**Filed: 3/3/2023**

10300SB1085sam001

LRB103 05520 KTG 58476 a

1 AMENDMENT TO SENATE BILL 1085

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1085 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Human Services Act is  
5 amended 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 (i)  
15 investigate and report upon allegations of the abuse, neglect,  
16 or financial exploitation of individuals receiving services

1 within mental health facilities, developmental disabilities  
2 facilities, and community agencies operated, licensed, funded,  
3 or certified by the Department of Human Services, but not  
4 licensed or certified by any other State agency, and (ii)  
5 investigate and report any employee subject to the  
6 requirements of this Section who is found to materially  
7 obstruct, interfere with, or impede any investigation  
8 conducted by the Office of the Inspector General in accordance  
9 with this Section.

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

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

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

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

1 individuals: mental abuse, physical abuse, sexual abuse,  
2 neglect, or financial exploitation. "Allegation" also includes  
3 an assertion, complaint, suspicion, or incident of material  
4 obstruction of an investigation by an employee.

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

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

11 "Department" means the Department of Human Services.

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

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

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

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

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

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

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

16 "Health Care Worker Registry" or "Registry" means the  
17 Health Care Worker Registry under the Health Care Worker  
18 Background Check Act.

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

22 "Material obstruction of an investigation" means  
23 withholding or altering documentation or recorded evidence;  
24 improperly influencing, threatening or impeding witness  
25 testimony; giving untruthful information during an interview;  
26 failing to cooperate in an investigation conducted by the

1 Office of Inspector General; and lying to law enforcement.

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

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

10 "Mentally ill" means having a mental illness.

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

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

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

1 "Physical abuse" means an employee's non-accidental and  
2 inappropriate contact with an individual that causes bodily  
3 harm. "Physical abuse" includes actions that cause bodily harm  
4 as a result of an employee directing an individual or person to  
5 physically abuse another individual.

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

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

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

16 "Sexual abuse" means any sexual contact or intimate  
17 physical contact between an employee and an individual,  
18 including an employee's coercion or encouragement of an  
19 individual to engage in sexual behavior that results in sexual  
20 contact, intimate physical contact, sexual behavior, or  
21 intimate physical behavior. Sexual abuse also includes (i) an  
22 employee's actions that result in the sending or showing of  
23 sexually explicit images to an individual via computer,  
24 cellular phone, electronic mail, portable electronic device,  
25 or other media with or without contact with the individual or  
26 (ii) an employee's posting of sexually explicit images of an

1 individual online or elsewhere whether or not there is contact  
2 with the individual.

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

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

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

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

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

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

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

25           (f) Limitations. The Inspector General shall not conduct  
26 an investigation within an agency or facility if that



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

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

26 (h) Training programs. The Inspector General shall (i)

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

22 (i) Duty to cooperate.

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

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

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

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

14           (k) Reporting allegations and deaths.

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

1 intentionally fails to comply with these reporting  
2 requirements is guilty of a Class A misdemeanor.

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

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

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

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

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

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

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

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

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

25 (n) Written responses, clarification requests, and  
26 reconsideration requests.

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

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

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



1 the reconsideration request. The investigation shall be  
2 reopened if the reconsideration determination finds that  
3 additional information is needed to complete the  
4 investigative record.

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

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

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

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

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

21 (1) Appointment of on-site monitors.

22 (2) Transfer or relocation of an individual or  
23 individuals.

24 (3) Closure of units.

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

26 (i) Department licensing, (ii) funding, or (iii)

1 certification.

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

5 (s) Health Care Worker Registry.

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

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

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

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

1 administrative law judge consider a stipulated disposition  
2 of these proceedings.

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

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

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

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

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

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

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

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

25 The Board shall meet quarterly, and may hold other  
26 meetings on the call of the chairman. Four members shall

1 constitute a quorum allowing the Board to conduct its  
2 business. The Board may adopt rules and regulations it deems  
3 necessary to govern its own procedures.

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

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

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

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

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

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



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

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

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

1 health care professionals.

2 (y) Nothing in this Section shall require a facility,  
3 including its employees, agents, medical staff members, and  
4 health care professionals, to provide a service to an  
5 individual in contravention of that individual's stated or  
6 implied objection to the provision of that service on the  
7 ground that that service conflicts with the individual's  
8 religious beliefs or practices, nor shall the failure to  
9 provide a service to an individual be considered abuse under  
10 this Section if the individual has objected to the provision  
11 of that service based on his or her religious beliefs or  
12 practices.

13 (Source: P.A. 101-81, eff. 7-12-19; 102-538, eff. 8-20-21;  
14 102-883, eff. 5-13-22; 102-1071, eff. 6-10-22; revised  
15 7-26-22.)

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law."