

1 AN ACT concerning children.

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 (Text of Section before amendment by P.A. 96-339)

8 Sec. 1-17. Inspector General.

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

1 abuse, neglect, or financial exploitation of adults with  
2 disabilities living in domestic settings in the community under  
3 the Abuse of Adults with Disabilities Intervention Act.

4 (b) Definitions. The following definitions apply to this  
5 Section:

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

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

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

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

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

26 "Deflection" includes triage, redirection, and denial of

1 admission.

2 "Department" means the Department of Human Services.

3 "Developmentally disabled" means having a developmental  
4 disability.

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 gross  
10 failure to adequately provide for, or a callused indifference  
11 to, the health, safety, or medical needs of an individual and  
12 (ii) results in an individual's death or other serious  
13 deterioration of an individual's physical condition or mental  
14 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 or  
18 agency. Also, "employee" includes any employee or contractual  
19 agent of the Department of Human Services or the community  
20 agency involved in providing or monitoring or administering  
21 mental health or developmental disability services. This  
22 includes but is not limited to: owners, operators, payroll  
23 personnel, contractors, subcontractors, and volunteers.

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

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

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

8 "Health care worker registry" or "registry" means the  
9 health care worker registry created by the Nursing Home Care  
10 Act.

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

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

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

22 "Mentally ill" means having a mental illness.

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

1 both the severity of the conduct and the culpability of the  
2 accused.

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

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

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

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

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

26 "Sexual abuse" means any sexual contact or intimate

1 physical contact between an employee and an individual,  
2 including an employee's coercion or encouragement of an  
3 individual to engage in sexual behavior that results in sexual  
4 contact, intimate physical contact, sexual behavior, or  
5 intimate physical behavior.

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

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

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

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

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

25 (e) Powers and duties. The Inspector General shall  
26 investigate reports of suspected mental abuse, physical abuse,

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

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

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

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

24 (h) Training programs. The Inspector General shall (i)  
25 establish a comprehensive program to ensure that every person  
26 authorized to conduct investigations receives ongoing training



1 relative to investigation techniques, communication skills,  
2 and the appropriate means of interacting with persons receiving  
3 treatment for mental illness, developmental disability, or  
4 both mental illness and developmental disability, and (ii)  
5 establish and conduct periodic training programs for facility  
6 and agency employees concerning the prevention and reporting of  
7 any one or more of the following: mental abuse, physical abuse,  
8 sexual abuse, neglect, egregious neglect, or financial  
9 exploitation. Nothing in this Section shall be deemed to  
10 prevent the Office of Inspector General from conducting any  
11 other training as determined by the Inspector General to be  
12 necessary or helpful.

13 (i) Duty to cooperate.

14 (1) The Inspector General shall at all times be granted  
15 access to any facility or agency for the purpose of  
16 investigating any allegation, conducting unannounced site  
17 visits, monitoring compliance with a written response, or  
18 completing any other statutorily assigned duty. The  
19 Inspector General shall conduct unannounced site visits to  
20 each facility at least annually for the purpose of  
21 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) providing  
6 false information to an Office of the Inspector General  
7 Investigator during an investigation, (iii) colluding with  
8 other employees to cover up evidence, (iv) colluding with  
9 other employees to provide false information to an Office  
10 of the Inspector General investigator, (v) destroying  
11 evidence, (vi) withholding evidence, or (vii) otherwise  
12 obstructing an Office of the Inspector General  
13 investigation. Additionally, any employee who, during an  
14 unannounced site visit or written response compliance  
15 check, fails to cooperate with requests from the Office of  
16 the Inspector General is in violation of this Act.

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

1 provides false information to the Office of the Inspector  
2 General by subpoena during an investigation is guilty of a  
3 Class A misdemeanor.

4 (k) Reporting allegations and deaths.

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

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

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

26 (ii) Any death of an individual occurring within 24

1           hours after deflection from a residential program or  
2           facility.

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

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

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

23          (m) Investigative reports. Upon completion of an  
24          investigation, the Office of Inspector General shall issue an  
25          investigative report identifying whether the allegations are  
26          substantiated, unsubstantiated, or unfounded. Within 10

1 business days after the transmittal of a completed  
2 investigative report substantiating an allegation, or if a  
3 recommendation is made, the Inspector General shall provide the  
4 investigative report on the case to the Secretary and to the  
5 director of the facility or agency where any one or more of the  
6 following occurred: mental abuse, physical abuse, sexual  
7 abuse, neglect, egregious neglect, or financial exploitation.  
8 In a substantiated case, the investigative report shall include  
9 any mitigating or aggravating circumstances that were  
10 identified during the investigation. If the case involves  
11 substantiated neglect, the investigative report shall also  
12 state whether egregious neglect was found. An investigative  
13 report may also set forth recommendations. All investigative  
14 reports prepared by the Office of the Inspector General shall  
15 be considered confidential and shall not be released except as  
16 provided by the law of this State or as required under  
17 applicable federal law. Unsubstantiated and unfounded reports  
18 shall not be disclosed except as allowed under Section 6 of the  
19 Abused and Neglected Long Term Care Facility Residents  
20 Reporting Act. Raw data used to compile the investigative  
21 report shall not be subject to release unless required by law  
22 or a court order. "Raw data used to compile the investigative  
23 report" includes, but is not limited to, any one or more of the  
24 following: the initial complaint, witness statements,  
25 photographs, investigator's notes, police reports, or incident  
26 reports. If the allegations are substantiated, the accused

1 shall be provided with a redacted copy of the investigative  
2 report. Death reports where there was no allegation of abuse or  
3 neglect shall only be released pursuant to applicable State or  
4 federal law or a valid court order.

5 (n) Written responses and reconsideration requests.

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

18 (2) Reconsideration requests. The facility, agency,  
19 victim or guardian, or the subject employee may request  
20 that the Office of Inspector General reconsider or clarify  
21 its finding based upon additional information.

22 (o) Disclosure of the finding by the Inspector General. The  
23 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 any  
25 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 include,  
2 but are not limited to: (i) site visits, (ii) telephone  
3 contact, and (iii) requests for additional documentation  
4 evidencing compliance.

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

11 (1) Appointment of on-site monitors.

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

14 (3) Closure of units.

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

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

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

21 (s) Health care worker registry.

22 (1) Reporting to the registry. The Inspector General  
23 shall report to the Department of Public Health's health  
24 care worker registry, a public registry, the identity and  
25 finding of each employee of a facility or agency against  
26 whom there is a final investigative report containing a



1 substantiated allegation of physical or sexual abuse or  
2 egregious neglect of an individual.

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

21 (3) Registry hearings. If the employee requests an  
22 administrative hearing, the employee shall be granted an  
23 opportunity to appear before an administrative law judge to  
24 present reasons why the employee's name should not be  
25 reported to the registry. The Department shall bear the  
26 burden of presenting evidence that establishes, by a

1 preponderance of the evidence, that the substantiated  
2 finding warrants reporting to the registry. After  
3 considering all the evidence presented, the administrative  
4 law judge shall make a recommendation to the Secretary as  
5 to whether the substantiated finding warrants reporting  
6 the name of the employee to the registry. The Secretary  
7 shall render the final decision. The Department and the  
8 employee shall have the right to request that the  
9 administrative law judge consider a stipulated disposition  
10 of these proceedings.

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

23 (5) Employee's rights to collateral action. No  
24 reporting to the registry shall occur and no hearing shall  
25 be set or proceed if an employee notifies the Inspector  
26 General in writing, including any supporting

1 documentation, that he or she is formally contesting an  
2 adverse employment action resulting from a substantiated  
3 finding by complaint filed with the Illinois Civil Service  
4 Commission, or which otherwise seeks to enforce the  
5 employee's rights pursuant to any applicable collective  
6 bargaining agreement. If an action taken by an employer  
7 against an employee as a result of a finding of physical  
8 abuse, sexual abuse, or egregious neglect is overturned  
9 through an action filed with the Illinois Civil Service  
10 Commission or under any applicable collective bargaining  
11 agreement and if that employee's name has already been sent  
12 to the registry, the employee's name shall be removed from  
13 the registry.

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

1           (t) Review of Administrative Decisions. The Department  
2 shall preserve a record of all proceedings at any formal  
3 hearing conducted by the Department involving health care  
4 worker registry hearings. Final administrative decisions of  
5 the Department are subject to judicial review pursuant to  
6 provisions of the Administrative Review Law.

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

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

1           The Board shall meet quarterly, and may hold other meetings  
2 on the call of the chairman. Four members shall constitute a  
3 quorum allowing the Board to conduct its business. The Board  
4 may adopt rules and regulations it deems necessary to govern  
5 its own procedures.

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

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

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

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

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

23           (v) Annual report. The Inspector General shall provide to  
24 the General Assembly and the Governor, no later than January 1  
25 of each year, a summary of reports and investigations made  
26 under this Act for the prior fiscal year with respect to

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

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

25 (x) Nothing in this Section shall be construed to mean that  
26 a patient is a victim of abuse or neglect because of health

1 care services appropriately provided or not provided by health  
2 care professionals.

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

13 (Source: P.A. 95-545, eff. 8-28-07; 96-407, eff. 8-13-09;  
14 96-555, eff. 8-18-09; revised 9-25-09.)

15 (Text of Section after amendment by P.A. 96-339)  
16 Sec. 1-17. Inspector General.

17 (a) Nature and purpose. It is the express intent of the  
18 General Assembly to ensure the health, safety, and financial  
19 condition of individuals receiving services in this State due  
20 to mental illness, developmental disability, or both by  
21 protecting those persons from acts of abuse, neglect, or both  
22 by service providers. To that end, the Office of the Inspector  
23 General for the Department of Human Services is created to  
24 investigate and report upon allegations of the abuse, neglect,  
25 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 or ~~, but not~~  
4 ~~licensed or certified~~ by any other State agency. It is also the  
5 express intent of the General Assembly to authorize the  
6 Inspector General to investigate alleged or suspected cases of  
7 abuse, neglect, or financial exploitation of adults with  
8 disabilities living in domestic settings in the community under  
9 the Abuse of Adults with Disabilities Intervention Act.

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

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

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

23 "Allegation" means an assertion, complaint, suspicion, or  
24 incident involving any of the following conduct by an employee,  
25 facility, or agency against an individual or individuals:  
26 mental abuse, physical abuse, sexual abuse, neglect, or



1 financial exploitation.

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

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

8 "Department" means the Department of Human Services.

9 "Developmentally disabled" means having a developmental  
10 disability.

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

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

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

1 mental health or developmental disability services. This  
2 includes but is not limited to: owners, operators, payroll  
3 personnel, contractors, subcontractors, and volunteers.

4 "Facility" or "State-operated facility" means a mental  
5 health facility or developmental disabilities facility  
6 operated by the Department or certified or licensed by any  
7 other State agency.

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

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

15 "Health care worker registry" or "registry" means the  
16 health care worker registry created by the Nursing Home Care  
17 Act.

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

21 "Mental abuse" means the use of demeaning, intimidating, or  
22 threatening words, signs, gestures, or other actions by an  
23 employee about an individual and in the presence of an  
24 individual or individuals that results in emotional distress or  
25 maladaptive behavior, or could have resulted in emotional  
26 distress or maladaptive behavior, for any individual present.

1 "Mental illness" means "mental illness" as defined in the  
2 Mental Health and Developmental Disabilities Code.

3 "Mentally ill" means having a mental illness.

4 "Mitigating circumstance" means a condition that (i) is  
5 attendant to a finding, (ii) does not excuse or justify the  
6 conduct in question, but (iii) may be considered in evaluating  
7 the severity of the conduct, the culpability of the accused, or  
8 both the severity of the conduct and the culpability of the  
9 accused.

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

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

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.

13 "Substantiated" means there is a preponderance of the  
14 evidence to support the allegation.

15 "Unfounded" means there is no credible evidence to support  
16 the allegation.

17 "Unsubstantiated" means there is credible evidence, but  
18 less than a preponderance of evidence to support the  
19 allegation.

20 (c) Appointment. The Governor shall appoint, and the Senate  
21 shall confirm, an Inspector General. The Inspector General  
22 shall be appointed for a term of 4 years and shall function  
23 within the Department of Human Services and report to the  
24 Secretary and the Governor.

25 (d) Operation and appropriation. The Inspector General  
26 shall function independently within the Department with

1 respect to the operations of the Office, including the  
2 performance of investigations and issuance of findings and  
3 recommendations. The appropriation for the Office of Inspector  
4 General shall be separate from the overall appropriation for  
5 the Department.

6 (e) Powers and duties. The Inspector General shall  
7 investigate reports of suspected mental abuse, physical abuse,  
8 sexual abuse, neglect, or financial exploitation of  
9 individuals in any mental health or developmental disabilities  
10 facility or agency and shall have authority to take immediate  
11 action to prevent any one or more of the following from  
12 happening to individuals under its jurisdiction: mental abuse,  
13 physical abuse, sexual abuse, neglect, or financial  
14 exploitation. Investigations shall be commenced no later than  
15 24 hours after the report is received by the Inspector General.

16 Upon written request of an agency of this State, the Inspector  
17 General may assist another agency of the State in investigating  
18 reports of the abuse, neglect, or abuse and neglect of persons  
19 with mental illness, persons with developmental disabilities,  
20 or persons with both. To comply with the requirements of  
21 subsection (k) of this Section, the Inspector General shall  
22 also review all reportable deaths for which there is no  
23 allegation of abuse or neglect. Nothing in this Section shall  
24 preempt any duties of the Medical Review Board set forth in the  
25 Mental Health and Developmental Disabilities Code. The  
26 Inspector General shall have no authority to investigate

1 alleged violations of the State Officials and Employees Ethics  
2 Act. Allegations of misconduct under the State Officials and  
3 Employees Ethics Act shall be referred to the Office of the  
4 Governor's Executive Inspector General for investigation.

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

17 (g) Rulemaking authority. The Inspector General shall  
18 promulgate rules establishing minimum requirements for  
19 reporting allegations as well as for initiating, conducting,  
20 and completing investigations ~~based upon the nature of the~~  
21 ~~allegation or allegations. The rules shall clearly establish~~  
22 ~~that if 2 or more State agencies could investigate an~~  
23 ~~allegation, the Inspector General shall not conduct an~~  
24 ~~investigation that would be redundant to, or interfere with, an~~  
25 ~~investigation conducted by another State agency.~~ The rules  
26 shall further clarify the method and circumstances under which

1 the Office of Inspector General may interact with the  
2 licensing, funding, or certification units of the Department in  
3 preventing further occurrences of mental abuse, physical  
4 abuse, sexual abuse, neglect, egregious neglect, and financial  
5 exploitation.

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

21 (i) Duty to cooperate.

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

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

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

25 (j) Subpoena powers. The Inspector General shall have the  
26 power to subpoena witnesses and compel the production of all



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

12 (k) Reporting allegations and deaths.

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

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

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

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

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

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

18           (1) Reporting criminal acts. Within 24 hours after  
19 determining that there is credible evidence indicating that a  
20 criminal act may have been committed or that special expertise  
21 may be required in an investigation, the Inspector General  
22 shall notify the Department of State Police or other  
23 appropriate law enforcement authority, or ensure that such  
24 notification is made. The Department of State Police shall  
25 investigate any report from a State-operated facility  
26 indicating a possible murder, sexual assault, or other felony

1 by an employee. All investigations conducted by the Inspector  
2 General shall be conducted in a manner designed to ensure the  
3 preservation of evidence for possible use in a criminal  
4 prosecution.

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

1 Abused and Neglected Long Term Care Facility Residents  
2 Reporting Act. Raw data used to compile the investigative  
3 report shall not be subject to release unless required by law  
4 or a court order. "Raw data used to compile the investigative  
5 report" includes, but is not limited to, any one or more of the  
6 following: the initial complaint, witness statements,  
7 photographs, investigator's notes, police reports, or incident  
8 reports. If the allegations are substantiated, the accused  
9 shall be provided with a redacted copy of the investigative  
10 report. Death reports where there was no allegation of abuse or  
11 neglect shall only be released pursuant to applicable State or  
12 federal law or a valid court order.

13 (n) Written responses and reconsideration requests.

14 (1) Written responses. Within 30 calendar days from  
15 receipt of a substantiated investigative report or an  
16 investigative report which contains recommendations,  
17 absent a reconsideration request, the facility or agency  
18 shall file a written response that addresses, in a concise  
19 and reasoned manner, the actions taken to: (i) protect the  
20 individual; (ii) prevent recurrences; and (iii) eliminate  
21 the problems identified. The response shall include the  
22 implementation and completion dates of such actions. If the  
23 written response is not filed within the allotted 30  
24 calendar day period, the Secretary shall determine the  
25 appropriate corrective action to be taken.

26 (2) Reconsideration requests. The facility, agency,

1 victim or guardian, or the subject employee may request  
2 that the Office of Inspector General reconsider or clarify  
3 its finding based upon additional information.

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

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

24 (q) Action by facility or agency. Within 30 days of the  
25 date the Secretary approves the written response or directs  
26 that further administrative action be taken, the facility or

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

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

22 (1) Appointment of on-site monitors.

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

25 (3) Closure of units.

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

1 (i) Department licensing, (ii) funding, ~~or~~ (iii)  
2 certification, or (iv) licensing enforcement by the  
3 licensing entity of the facility, if any, up to and  
4 including revocation of licensure or an administrative  
5 order of closure, or both.

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

9 (s) Health care worker registry.

10 (1) Reporting to the registry. The Inspector General  
11 shall report to the Department of Public Health's health  
12 care worker registry, a public registry, ~~MR/DD Community~~  
13 ~~Care Act~~ the identity and finding of each employee of a  
14 facility or agency against whom there is a final  
15 investigative report containing a substantiated allegation  
16 of physical or sexual abuse or egregious neglect of an  
17 individual. ~~MR/DD Community Care Act~~

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

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

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

26 (4) Testimony at registry hearings. A person who makes



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

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

1 to the registry, the employee's name shall be removed from  
2 the registry.

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

16 (t) Review of Administrative Decisions. The Department  
17 shall preserve a record of all proceedings at any formal  
18 hearing conducted by the Department involving health care  
19 worker registry hearings. Final administrative decisions of  
20 the Department are subject to judicial review pursuant to  
21 provisions of the Administrative Review Law.

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

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

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

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

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

- 26 (1) Provide independent, expert consultation to the

1 Inspector General on policies and protocols for  
2 investigations of alleged abuse, neglect, or both abuse and  
3 neglect.

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

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

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

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

1 ratios taking account of direct care staff only. The report  
2 shall also include detailed recommended administrative actions  
3 and matters for consideration by the General Assembly.

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

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

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

1 beliefs or practices.

2 (Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10;  
3 96-407, eff. 8-13-09; 96-555, eff. 8-18-09; revised 9-25-09.)

4 Section 10. The Abuse of Adults with Disabilities  
5 Intervention Act is amended by changing Section 35 as follows:

6 (20 ILCS 2435/35) (from Ch. 23, par. 3395-35)

7 Sec. 35. Assessment of reports.

8 (a) The Adults with Disabilities Abuse Project shall, upon  
9 receiving a report of alleged or suspected abuse, neglect, or  
10 exploitation obtain the consent of the subject of the report to  
11 conduct an assessment with respect to the report. The  
12 assessment shall include, but not be limited to, a face-to-face  
13 interview with the adult with disabilities who is the subject  
14 of the report and may include a visit to the residence of the  
15 adult with disabilities, and interviews or consultations with  
16 service agencies or individuals who may have knowledge of the  
17 circumstances of the adult with disabilities. A determination  
18 shall be made whether each report is substantiated. If the  
19 Office of Inspector General determines that there is clear and  
20 substantial risk of death or great bodily harm, it shall  
21 immediately secure or provide emergency protective services  
22 for purposes of preventing further abuse, neglect, or  
23 exploitation, and for safeguarding the welfare of the person.  
24 Such services must be provided in the least restrictive

1 environment commensurate with the adult with disabilities'  
2 needs.

3 (a-1) The Adults with Disabilities Abuse Project shall,  
4 upon receiving a report of alleged or suspected abuse, neglect,  
5 or financial exploitation, initiate the investigation within  
6 24 hours of receiving the report.

7 (a-5) The Adults with Disabilities Abuse Project shall  
8 initiate an assessment of all reports of alleged or suspected  
9 abuse or neglect within 7 days after receipt of the report,  
10 except reports of abuse or neglect that indicate that the life  
11 or safety of an adult with disabilities is in imminent danger  
12 shall be assessed within 24 hours after receipt of the report.  
13 Reports of exploitation shall be assessed within 30 days after  
14 the receipt of the report.

15 (b) (Blank).

16 (c) The Department shall effect written interagency  
17 agreements with other State departments and any other public  
18 and private agencies to coordinate and cooperate in the  
19 handling of substantiated cases; to accept and manage  
20 substantiated cases on a priority basis; and to waive  
21 eligibility requirements for the adult with disabilities in an  
22 emergency.

23 (d) Every effort shall be made by the Adults with  
24 Disabilities Abuse Project to coordinate and cooperate with  
25 public and private agencies to ensure the provision of services  
26 necessary to eliminate further abuse, neglect, and

1 exploitation of the adult with disabilities who is the subject  
2 of the report.

3 The Office of Inspector General shall promulgate rules and  
4 regulations to ensure the effective implementation of the  
5 Adults with Disabilities Abuse Project statewide.

6 (e) When the Adults with Disabilities Abuse Project  
7 determines that a case is substantiated, it shall refer the  
8 case to the appropriate office within the Department of Human  
9 Services to develop, with the consent of and in consultation  
10 with the adult with disabilities, a service plan for the adult  
11 with disabilities.

12 (f) The Adults with Disabilities Abuse Project shall refer  
13 reports of alleged or suspected abuse, neglect, or exploitation  
14 to another State agency when that agency has a statutory  
15 obligation to investigate such reports.

16 (g) If the Adults with Disabilities Abuse Project has  
17 reason to believe that a crime has been committed, the incident  
18 shall be reported to the appropriate law enforcement agency.

19 (Source: P.A. 91-671, eff. 7-1-00.)

20 Section 15. The Abused and Neglected Child Reporting Act is  
21 amended by adding Section 4.4a as follows:

22 (325 ILCS 5/4.4a new)

23 Sec. 4.4a. DCFS duty to report to DHS' Office of Inspector  
24 General. Whenever the Department receives, by means of its



1 statewide toll-free telephone number established under Section  
2 7.6 for the purpose of reporting suspected child abuse or  
3 neglect or by any other means or from any mandated reporter  
4 under Section 4, a report of suspected abuse, neglect, or  
5 financial exploitation of a disabled adult person between the  
6 ages of 18 and 59, the Department shall instruct the reporter  
7 to contact the Department of Human Services' Office of the  
8 Inspector General and shall provide the reporter with the  
9 statewide, 24-hour toll-free telephone number established and  
10 maintained by the Department of Human Services' Office of the  
11 Inspector General.

12 Section 95. No acceleration or delay. Where this Act makes  
13 changes in a statute that is represented in this Act by text  
14 that is not yet or no longer in effect (for example, a Section  
15 represented by multiple versions), the use of that text does  
16 not accelerate or delay the taking effect of (i) the changes  
17 made by this Act or (ii) provisions derived from any other  
18 Public Act.".