

# SB2429



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB2429

Introduced 2/9/2016, by Sen. Tim Bivins

#### SYNOPSIS AS INTRODUCED:

20 ILCS 1305/1-17

Amends the Department of Human Services Act. In a provision concerning investigative reports issued by the Office of the Inspector General, permits the Inspector General to release, on a case-by-case basis, an investigative report and the raw data used to compile the report to a local law enforcement entity or a State's Attorney's office upon written request. Corrects a spelling error in the definition of "egregious neglect". Effective immediately.

LRB099 15924 KTG 44898 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

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

6 (20 ILCS 1305/1-17)

7 Sec. 1-17. Inspector General.

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

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

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

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

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

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

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

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

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

1 "Deflection" includes triage, redirection, and denial of  
2 admission.

3 "Department" means the Department of Human Services.

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

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

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

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

26 "Financial exploitation" means taking unjust advantage of

1 an individual's assets, property, or financial resources  
2 through deception, intimidation, or conversion for the  
3 employee's, facility's, or agency's own advantage or benefit.

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

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

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

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

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

21 "Mentally ill" means having a mental illness.

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

1 accused.

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

10 "Person with a developmental disability" means a person  
11 having a developmental disability.

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

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

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

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

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

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

19 "Substantiated" means there is a preponderance of the  
20 evidence to support the allegation.

21 "Unfounded" means there is no credible evidence to support  
22 the allegation.

23 "Unsubstantiated" means there is credible evidence, but  
24 less than a preponderance of evidence to support the  
25 allegation.

26 (c) Appointment. The Governor shall appoint, and the Senate

1 shall confirm, an Inspector General. The Inspector General  
2 shall be appointed for a term of 4 years and shall function  
3 within the Department of Human Services and report to the  
4 Secretary and the Governor.

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

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



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

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

22 (g) Rulemaking authority. The Inspector General shall  
23 promulgate rules establishing minimum requirements for  
24 reporting allegations as well as for initiating, conducting,  
25 and completing investigations based upon the nature of the  
26 allegation or allegations. The rules shall clearly establish

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

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

26 (i) Duty to cooperate.

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

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

1 unannounced site visit or written response compliance  
2 check, fails to cooperate with requests from the Office of  
3 the Inspector General is in violation of this Act.

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

17 (k) Reporting allegations and deaths.

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

1 following: mental abuse, physical abuse, sexual abuse,  
2 neglect, or financial exploitation. A required reporter as  
3 defined in subsection (b) of this Section who knowingly or  
4 intentionally fails to comply with these reporting  
5 requirements is guilty of a Class A misdemeanor.

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

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

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

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

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

23 (1) Reporting to law enforcement.

24 (1) Reporting criminal acts. Within 24 hours after  
25 determining that there is credible evidence indicating  
26 that a criminal act may have been committed or that special

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

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

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

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

14 (n) Written responses and reconsideration requests.

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



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

5           (o) Disclosure of the finding by the Inspector General. The  
6           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 any  
8 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 include,  
11 but are not limited to: (i) site visits, (ii) telephone  
12 contact, and (iii) requests for additional documentation  
13 evidencing compliance.

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

20 (1) Appointment of on-site monitors.

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

23 (3) Closure of units.

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

25 (i) Department licensing, (ii) funding, or (iii)  
26 certification.

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

4           (s) Health care worker registry.

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

13           (2) Notice to employee. Prior to reporting the name of  
14 an employee, the employee shall be notified of the  
15 Department's obligation to report and shall be granted an  
16 opportunity to request an administrative hearing, the sole  
17 purpose of which is to determine if the substantiated  
18 finding warrants reporting to the registry. Notice to the  
19 employee shall contain a clear and concise statement of the  
20 grounds on which the report to the registry is based, offer  
21 the employee an opportunity for a hearing, and identify the  
22 process for requesting such a hearing. Notice is sufficient  
23 if provided by certified mail to the employee's last known  
24 address. If the employee fails to request a hearing within  
25 30 days from the date of the notice, the Inspector General  
26 shall report the name of the employee to the registry.

1 Nothing in this subdivision (s) (2) shall diminish or impair  
2 the rights of a person who is a member of a collective  
3 bargaining unit under the Illinois Public Labor Relations  
4 Act or under any other federal labor statute.

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

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

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

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

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

1 to remove his or her name from the registry. Upon receiving  
2 notice of such request, the Inspector General shall conduct  
3 an investigation into the petition. Upon receipt of such  
4 request, an administrative hearing will be set by the  
5 Department. At the hearing, the employee shall bear the  
6 burden of presenting evidence that establishes, by a  
7 preponderance of the evidence, that removal of the name  
8 from the registry is in the public interest. The parties  
9 may jointly request that the administrative law judge  
10 consider a stipulated disposition of these proceedings.

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

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

1 appoint a successor for the remainder of the unexpired term.

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

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

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

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

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

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

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

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

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



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

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

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

23 (Source: P.A. 98-49, eff. 7-1-13; 98-711, eff. 7-16-14; 99-143,  
24 eff. 7-27-15; 99-323, eff. 8-7-15; revised 10-19-15.)

25 Section 99. Effective date. This Act takes effect upon  
26 becoming law.