



Rep. Bob Morgan

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LRB104 04759 SPS 36046 a

1 AMENDMENT TO HOUSE BILL 862

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 862 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Findings. The General Assembly finds that:

5 (1) Illinois law recognizes that individuals with  
6 disabilities should have self-determination and retain the  
7 right to make decisions about their own lives and care to the  
8 maximum extent possible.

9 (2) Illinois has established, as a bedrock principle of  
10 public policy, that support and protection of persons with  
11 disabilities should be unbiased and free from conflicts of  
12 interest.

13 (3) Fifty years ago, the Governor's Commission for  
14 Revision of the Mental Health Code of Illinois released its  
15 report recommending revisions to the civil and criminal laws  
16 that advance the rights and interests of persons with  
17 disabilities. The report reflected the work of 36 Commission

1 members, 47 advisory members, consultants, and staff, engaged  
2 in a process that presented a democratic forum that welded  
3 together the input of many dedicated people into a cohesive  
4 whole.

5 (4) In 1979, the General Assembly used the recommendations  
6 to address the far-reaching and comprehensive need for  
7 statutory reform that would reflect the historical and  
8 continued progress in the capacity of our people to rise above  
9 prejudice, superstition, and irrational fears, enabling  
10 persons with disabilities to participate more fully in the  
11 total life of our society.

12 (5) Part of the reform was the establishment of the  
13 Guardianship and Advocacy Commission, which since then has  
14 served as a national leader in protecting the rights and  
15 advancing the rights and interests of persons with  
16 disabilities.

17 (6) Today, the Guardianship and Advocacy Commission  
18 provides critical services to some of the most vulnerable  
19 residents of this State in accordance with statutory mandates  
20 that are unmatched by any other single agency in the United  
21 States, including:

22 (A) serving as court-appointed guardian for nearly  
23 5,000 adults with disabilities when no other suitable  
24 person is available;

25 (B) providing constitutionally mandated, direct legal  
26 representation in more than 7,000 involuntary mental

1 health and developmental disability proceedings annually;  
2 and

3 (C) investigating allegations of disability rights  
4 violations by public and private disability service  
5 providers.

6 (7) Continued demographic pressures, including the aging  
7 population of this State and the deepening understanding that  
8 persons with disabilities are entitled to full human rights  
9 and equal participation in society, require modernization of  
10 the Guardianship and Advocacy Commission to respond to the  
11 increasing need for its services and the evolving recognition  
12 and affirmation of the inherent dignity, right, and societal  
13 value of persons with disabilities.

14 Section 3. Purpose. It is the purpose of this Act to  
15 support the modernization of the Guardianship and Advocacy  
16 Commission by establishing the Department of Disability  
17 Advocacy and Guardianship as the successor agency to the  
18 Guardianship and Advocacy Commission. The Department of  
19 Disability Advocacy and Guardianship will maintain and  
20 strengthen this State's commitment to protecting and advancing  
21 the rights of persons with disabilities by retaining the core  
22 statutory duties, authorities, and functions assigned to the  
23 Guardianship and Advocacy Commission while adopting a  
24 governance structure that balances direct accountability with  
25 the independence necessary for effective advocacy.

1           Section 5. The State Budget Law of the Civil  
2 Administrative Code of Illinois is amended by changing Section  
3 50-28 as follows:

4           (15 ILCS 20/50-28)

5           Sec. 50-28. Youth Budget Commission.

6           (a) As used in this Section:

7           "Adolescent" or "youth" means a person between the ages of  
8 8 and 25 years.

9           "Commission" means the Youth Budget Commission established  
10 under this Section.

11           "Service models" include the following tiers of service  
12 delivered to adolescents and their families:

13           (1) Prevention: support for at-risk youth (deterrence,  
14 prevention of harm, extra supports).

15           (2) Treatment/intervention: respond to significant  
16 challenges in need of direct intervention to change,  
17 resolve or reverse behaviors, conditions, or both.

18           (3) Corrective/rehabilitation: correct or  
19 rehabilitate acute behaviors or conditions that pose a  
20 physical or psychological danger or threat to adolescents.

21           (4) Positive Youth Development: build individual  
22 assets and increase competencies.

23           "Youth developmental goals" are defined as the outcomes of  
24 stable, safe, healthy, educated, employable, and connected,

1 which align with the following Budgeting for Results goals:

2 (1) Stable: meeting the needs of the most vulnerable;  
3 increasing individual and family stability and  
4 self-sufficiency.

5 (2) Safe: creating safer communities.

6 (3) Healthy: improving the overall health of  
7 Illinoisans.

8 (4) Educated: improving school readiness and student  
9 success for all.

10 (5) Employable: increasing employment and attracting,  
11 retaining and growing businesses.

12 (6) Connected: strengthening cultural and  
13 environmental vitality.

14 (b) Subject to appropriation, the Governor shall establish  
15 the Youth Budget Commission with the goal of producing an  
16 annual fiscal scan. The fiscal scan, under the direction of  
17 the Commission, shall be used to advise the Governor and  
18 General Assembly, as well as State agencies, on ways to  
19 improve and expand existing policies, services, programs, and  
20 opportunities for adolescents. The Governor's Office of  
21 Management and Budget shall post a link to the fiscal scan on  
22 its website. For fiscal year 2019 and each fiscal year  
23 thereafter, the Commission established under this Section,  
24 shall complete an analysis of enacted State budget items which  
25 directly impact adolescents. This analysis will categorize  
26 budget items by the 6 identified youth developmental goals and

1 4 service models. The analysis will include State agency  
2 expenditures associated with these categories. General State  
3 Aid and federal funds such as Medicaid will be excluded from  
4 the analysis.

5 The Commission shall also be responsible for: (1)  
6 monitoring and commenting on existing and proposed legislation  
7 and programs designed to address the needs of adolescents; (2)  
8 assisting State agencies in developing programs, services,  
9 public policies, and research strategies that will expand and  
10 enhance the well-being of adolescents; (3) facilitating the  
11 participation of and representation of adolescents in the  
12 development, implementation, and planning of policies,  
13 programs, and community-based services; and (4) promoting  
14 research efforts to document the impact of policies and  
15 programs on adolescents.

16 (c) The Commission shall collaborate with State agencies,  
17 including the Illinois State Board of Education, the  
18 Department of Human Services, the Department of Children and  
19 Family Services, the Department of Commerce and Economic  
20 Opportunity, the Illinois Student Assistance Commission, the  
21 Department of Healthcare and Family Services, the Department  
22 of Public Health, the Illinois Community College Board, the  
23 Department of Juvenile Justice, the Illinois Criminal Justice  
24 Information Authority, the Department of Military Affairs, the  
25 Illinois Arts Council, the Department of Corrections, the  
26 Board of Higher Education, Department of Disability Advocacy

1 ~~and Illinois~~ Guardianship ~~and Advocacy Commission~~, Department  
2 on Aging, and others.

3 (d) The Commission shall be comprised of 15 members  
4 appointed by the Governor. Each member shall have a working  
5 knowledge of youth development, human services, and economic  
6 public policy in Illinois. One chairperson shall be a  
7 representative of a statewide nonprofit children and family  
8 services organization who has previously completed a similar  
9 analysis of the Illinois State budget. The other chairperson  
10 shall be a member of the General Assembly. Of the remaining  
11 members:

12 (1) at least one member representing an organization  
13 that has expertise in the needs of low-income youth;

14 (2) at least one member representing an organization  
15 that has expertise in the needs of youth of color;

16 (3) at least one member representing an organization  
17 that has expertise in the needs of youth who are  
18 immigrants or are children of immigrants;

19 (4) at least one member representing an organization  
20 that has expertise in the needs of youth who identify as  
21 LGBTQ, gender non-conforming, or both;

22 (5) at least one member representing an organization  
23 that has expertise in the needs of youth who are  
24 disconnected from traditional educational systems;

25 (6) at least one member representing an organization  
26 that has expertise in the needs of youth who are

1 experiencing homelessness; and

2 (7) at least one member representing an organization  
3 that has expertise in the needs of youth and young adults  
4 involved with the justice system.

5 Commission members shall reflect regional representation  
6 to ensure that the needs of adolescents throughout the State  
7 of Illinois are met. Members will serve without compensation,  
8 but shall be reimbursed for Commission-related expenses. Of  
9 the initial members appointed under this Section: 5 members  
10 shall serve for a 3-year term; 5 members shall serve for a  
11 4-year term; and 5 members shall serve for a 5-year term. Their  
12 successors shall serve for 5-year terms.

13 (e) The Governor's Office of Management and Budget shall  
14 provide administrative support to the Commission.

15 (Source: P.A. 100-818, eff. 8-13-18.)

16 Section 10. The Youth Homelessness Prevention Subcommittee  
17 Act is amended by changing Section 20 as follows:

18 (15 ILCS 60/20)

19 Sec. 20. Membership. The Youth Homelessness Prevention  
20 Subcommittee shall include the following members:

21 (1) One representative from the Governor's office.

22 (2) The Director of the Department of Children and  
23 Family Services.

24 (3) The Director of the Department of Healthcare and

1 Family Services.

2 (4) The Secretary of the Department of Human Services.

3 (5) The Director of the Department of Juvenile  
4 Justice.

5 (6) The Director of the Department of Corrections.

6 (7) The Director of the Department of Public Health.

7 (8) The Director of the Department of Disability  
8 Advocacy and Guardianship ~~and Advocacy Commission~~.

9 (9) Four representatives from agencies serving  
10 homeless youth.

11 (10) One representative from a homeless advocacy  
12 organization.

13 (11) One representative from a juvenile justice  
14 advocacy organization.

15 (12) Four youth who have a lived experience with  
16 homelessness.

17 (Source: P.A. 101-98, eff. 1-1-20.)

18 Section 15. The Civil Administrative Code of Illinois is  
19 amended by changing Sections 5-15 and 5-20 and by adding  
20 Sections 5-218, 5-348, and 5-543 as follows:

21 (20 ILCS 5/5-15) (was 20 ILCS 5/3)

22 Sec. 5-15. Departments of State government. The  
23 Departments of State government are created as follows:

24 The Department on Aging.

1 The Department of Agriculture.

2 The Department of Central Management Services.

3 The Department of Children and Family Services.

4 The Department of Commerce and Economic Opportunity.

5 The Department of Corrections.

6 The Department of Disability Advocacy and  
7 Guardianship.

8 The Department of Early Childhood.

9 The Department of Employment Security.

10 The Illinois Emergency Management Agency.

11 The Department of Financial and Professional  
12 Regulation.

13 The Department of Healthcare and Family Services.

14 The Department of Human Rights.

15 The Department of Human Services.

16 The Department of Innovation and Technology.

17 The Department of Insurance.

18 The Department of Juvenile Justice.

19 The Department of Labor.

20 The Department of the Lottery.

21 The Department of Natural Resources.

22 The Department of Public Health.

23 The Department of Revenue.

24 The Illinois State Police.

25 The Department of Transportation.

26 The Department of Veterans Affairs.

1 (Source: P.A. 103-594, eff. 6-25-24; 104-234, eff. 8-15-25.)

2 (20 ILCS 5/5-20) (was 20 ILCS 5/4)

3 Sec. 5-20. Heads of departments. Each department shall  
4 have an officer as its head who shall be known as director or  
5 secretary and who shall, subject to the provisions of the  
6 Civil Administrative Code of Illinois, execute the powers and  
7 discharge the duties vested by law in his or her respective  
8 department.

9 The following officers are hereby created:

10 Director of Aging, for the Department on Aging.

11 Director of Agriculture, for the Department of  
12 Agriculture.

13 Director of Central Management Services, for the  
14 Department of Central Management Services.

15 Director of Children and Family Services, for the  
16 Department of Children and Family Services.

17 Director of Commerce and Economic Opportunity, for the  
18 Department of Commerce and Economic Opportunity.

19 Director of Corrections, for the Department of  
20 Corrections.

21 Director of Disability Advocacy and Guardianship, for  
22 the Department of Disability Advocacy and Guardianship.

23 Director of the Illinois Emergency Management Agency,  
24 for the Illinois Emergency Management Agency.

25 Secretary of Early Childhood, for the Department of

1 Early Childhood.

2 Director of Employment Security, for the Department of  
3 Employment Security.

4 Secretary of Financial and Professional Regulation,  
5 for the Department of Financial and Professional  
6 Regulation.

7 Director of Healthcare and Family Services, for the  
8 Department of Healthcare and Family Services.

9 Director of Human Rights, for the Department of Human  
10 Rights.

11 Secretary of Human Services, for the Department of  
12 Human Services.

13 Secretary of Innovation and Technology, for the  
14 Department of Innovation and Technology.

15 Director of Insurance, for the Department of  
16 Insurance.

17 Director of Juvenile Justice, for the Department of  
18 Juvenile Justice.

19 Director of Labor, for the Department of Labor.

20 Director of the Lottery, for the Department of the  
21 Lottery.

22 Director of Natural Resources, for the Department of  
23 Natural Resources.

24 Director of Public Health, for the Department of  
25 Public Health.

26 Director of Revenue, for the Department of Revenue.

1 Director of the Illinois State Police, for the  
2 Illinois State Police.

3 Secretary of Transportation, for the Department of  
4 Transportation.

5 Director of Veterans Affairs, for the Department of  
6 Veterans Affairs.

7 (Source: P.A. 103-594, eff. 6-25-24; 104-234, eff. 8-15-25.)

8 (20 ILCS 5/5-218 new)

9 Sec. 5-218. Director of Disability Advocacy and  
10 Guardianship. The Director of Disability Advocacy and  
11 Guardianship shall be a person thoroughly conversant with the  
12 purposes of the Guardianship and Advocacy Act, actively  
13 interested in the development of programs to advocate for  
14 individuals with disabilities, and not affiliated with any  
15 entity that provides services to individuals with  
16 disabilities.

17 (20 ILCS 5/5-348 new)

18 Sec. 5-348. In the Department of Disability Advocacy and  
19 Guardianship. For terms beginning on or after July 1, 2027,  
20 the Director of Disability Advocacy and Guardianship shall  
21 receive an annual salary of \$197,000 or as set by the Governor,  
22 whichever is higher. On each July 1 thereafter, the Director  
23 shall receive an increase in salary based on a cost-of-living  
24 adjustment as authorized by Senate Joint Resolution 192 of the

1 86th General Assembly.

2 (20 ILCS 5/5-543 new)

3 Sec. 5-543. In the Department of Disability Advocacy and  
4 Guardianship. A Disability Advocacy and Guardianship Advisory  
5 Council composed and appointed as provided in the Guardianship  
6 and Advocacy Act.

7 Section 20. The Department of Innovation and Technology  
8 Act is amended by changing Section 1-5 as follows:

9 (20 ILCS 1370/1-5)

10 Sec. 1-5. Definitions. In this Act:

11 "Dedicated unit" means the dedicated bureau, division,  
12 office, or other unit within a transferred agency that is  
13 responsible for the information technology functions of the  
14 transferred agency.

15 "Department" means the Department of Innovation and  
16 Technology.

17 "Information technology" means technology,  
18 infrastructure, equipment, systems, software, networks, and  
19 processes used to create, send, receive, and store electronic  
20 or digital information, including, without limitation,  
21 computer systems and telecommunication services and systems.

22 "Information technology" shall be construed broadly to  
23 incorporate future technologies that change or supplant those

1 in effect as of the effective date of this Act.

2 "Information technology functions" means the development,  
3 procurement, installation, retention, maintenance, operation,  
4 possession, storage, and related functions of all information  
5 technology.

6 "Secretary" means the Secretary of Innovation and  
7 Technology.

8 "State agency" means each State agency, department, board,  
9 and commission under the jurisdiction of the Governor to which  
10 the Department provides services.

11 "Transferred agency" means the Department on Aging; the  
12 Departments of Agriculture, Central Management Services,  
13 Children and Family Services, Commerce and Economic  
14 Opportunity, Corrections, Employment Security, Financial and  
15 Professional Regulation, Healthcare and Family Services, Human  
16 Rights, Human Services, Insurance, Juvenile Justice, Labor,  
17 Lottery, Military Affairs, Natural Resources, Public Health,  
18 Revenue, Transportation, and Veterans' Affairs; the Illinois  
19 State Police; the Capital Development Board; the Deaf and Hard  
20 of Hearing Commission; the Environmental Protection Agency;  
21 the Governor's Office of Management and Budget; the Department  
22 of Disability Advocacy and Guardianship and ~~Advocacy~~  
23 Commission; the Abraham Lincoln Presidential Library and  
24 Museum; the Illinois Arts Council; the Illinois Council on  
25 Developmental Disabilities; the Illinois Emergency Management  
26 Agency; the Illinois Gaming Board; the Illinois Liquor Control

1 Commission; the Office of the State Fire Marshal; the Prisoner  
2 Review Board; and the Department of Early Childhood.

3 (Source: P.A. 103-588, eff. 6-5-24; 104-195, eff. 1-1-26.)

4 Section 25. The Mental Health and Developmental  
5 Disabilities Administrative Act is amended by changing  
6 Sections 4.3 and 14 as follows:

7 (20 ILCS 1705/4.3) (from Ch. 91 1/2, par. 100-4.3)

8 Sec. 4.3. Site visits and inspections.

9 (a) (Blank).

10 (b) The Department shall establish a system of regular and  
11 ongoing on-site inspections that shall occur at least annually  
12 of each facility under its jurisdiction. The inspections shall  
13 be conducted by the Department's central office to:

14 (1) Determine facility compliance with Department  
15 policies and procedures;

16 (2) Determine facility compliance with audit  
17 recommendations;

18 (3) Evaluate facility compliance with applicable  
19 federal standards;

20 (4) Review and follow up on complaints made by  
21 community mental health agencies and advocates, and on  
22 findings of the Division of Disability ~~Human~~ Rights and  
23 Protections Authority ~~division~~ of the Department of  
24 Disability Advocacy and Guardianship ~~and Advocacy~~

1 ~~Commission;~~

2 (5) Review administrative and management problems  
3 identified by other sources; and

4 (6) Identify and prevent abuse and neglect.

5 (Source: P.A. 95-427, eff. 1-1-08.)

6 (20 ILCS 1705/14) (from Ch. 91 1/2, par. 100-14)

7 Sec. 14. Chester Mental Health Center. To maintain and  
8 operate a facility for the care, custody, and treatment of  
9 persons with mental illness or habilitation of persons with  
10 developmental disabilities hereinafter designated, to be known  
11 as the Chester Mental Health Center.

12 Within the Chester Mental Health Center there shall be  
13 confined the following classes of persons, whose history, in  
14 the opinion of the Department, discloses dangerous or violent  
15 tendencies and who, upon examination under the direction of  
16 the Department, have been found a fit subject for confinement  
17 in that facility:

18 (a) Any male person who is charged with the commission  
19 of a crime but has been acquitted by reason of insanity as  
20 provided in Section 5-2-4 of the Unified Code of  
21 Corrections.

22 (b) Any male person who is charged with the commission  
23 of a crime but has been found unfit under Article 104 of  
24 the Code of Criminal Procedure of 1963.

25 (c) Any male person with mental illness or

1 developmental disabilities or person in need of mental  
2 treatment now confined under the supervision of the  
3 Department or hereafter admitted to any facility thereof  
4 or committed thereto by any court of competent  
5 jurisdiction.

6 If and when it shall appear to the facility director of the  
7 Chester Mental Health Center that it is necessary to confine  
8 persons in order to maintain security or provide for the  
9 protection and safety of recipients and staff, the Chester  
10 Mental Health Center may confine all persons on a unit to their  
11 rooms. This period of confinement shall not exceed 10 hours in  
12 a 24-hour ~~24-hour~~ period, including the recipient's scheduled  
13 hours of sleep, unless approved by the Secretary of the  
14 Department. During the period of confinement, the persons  
15 confined shall be observed at least every 15 minutes. A record  
16 shall be kept of the observations. This confinement shall not  
17 be considered seclusion as defined in the Mental Health and  
18 Developmental Disabilities Code.

19 The facility director of the Chester Mental Health Center  
20 may authorize the temporary use of handcuffs on a recipient  
21 for a period not to exceed 10 minutes when necessary in the  
22 course of transport of the recipient within the facility to  
23 maintain custody or security. Use of handcuffs is subject to  
24 the provisions of Section 2-108 of the Mental Health and  
25 Developmental Disabilities Code. The facility shall keep a  
26 monthly record listing each instance in which handcuffs are

1 used, circumstances indicating the need for use of handcuffs,  
2 and time of application of handcuffs and time of release  
3 therefrom. The facility director shall allow the Department of  
4 Disability Advocacy and Illinois Guardianship ~~and Advocacy~~  
5 ~~Commission~~, the agency designated by the Governor under  
6 Section 1 of the Protection and Advocacy for Persons with  
7 Developmental Disabilities Act, and the Department to examine  
8 and copy such record upon request.

9 The facility director of the Chester Mental Health Center  
10 may authorize the temporary use of transport devices on a  
11 civil recipient when necessary in the course of transport of  
12 the civil recipient outside the facility to maintain custody  
13 or security. The decision whether to use any transport devices  
14 shall be reviewed and approved on an individualized basis by a  
15 physician, an advanced practice registered nurse, or a  
16 physician assistant based upon a determination of the civil  
17 recipient's: (1) history of violence, (2) history of violence  
18 during transports, (3) history of escapes and escape attempts,  
19 (4) history of trauma, (5) history of incidents of restraint  
20 or seclusion and use of involuntary medication, (6) current  
21 functioning level and medical status, and (7) prior experience  
22 during similar transports, and the length, duration, and  
23 purpose of the transport. The least restrictive transport  
24 device consistent with the individual's need shall be used.  
25 Staff transporting the individual shall be trained in the use  
26 of the transport devices, recognizing and responding to a

1 person in distress, and shall observe and monitor the  
2 individual while being transported. The facility shall keep a  
3 monthly record listing all transports, including those  
4 transports for which use of transport devices was not sought,  
5 those for which use of transport devices was sought but  
6 denied, and each instance in which transport devices are used,  
7 circumstances indicating the need for use of transport  
8 devices, time of application of transport devices, time of  
9 release from those devices, and any adverse events. The  
10 facility director shall allow the Department of Disability  
11 Advocacy and ~~Illinois~~ Guardianship and ~~Advocacy Commission~~,  
12 the agency designated by the Governor under Section 1 of the  
13 Protection and Advocacy for Persons with Developmental  
14 Disabilities Act, and the Department to examine and copy the  
15 record upon request. This use of transport devices shall not  
16 be considered restraint as defined in the Mental Health and  
17 Developmental Disabilities Code. For the purpose of this  
18 Section "transport device" means ankle cuffs, handcuffs, waist  
19 chains or wrist-waist devices designed to restrict an  
20 individual's range of motion while being transported. These  
21 devices must be approved by the Division of Mental Health,  
22 used in accordance with the manufacturer's instructions, and  
23 used only by qualified staff members who have completed all  
24 training required to be eligible to transport patients and all  
25 other required training relating to the safe use and  
26 application of transport devices, including recognizing and

1 responding to signs of distress in an individual whose  
2 movement is being restricted by a transport device.

3 If and when it shall appear to the satisfaction of the  
4 Department that any person confined in the Chester Mental  
5 Health Center is not or has ceased to be such a source of  
6 danger to the public as to require his subjection to the  
7 regimen of the center, the Department is hereby authorized to  
8 transfer such person to any State facility for treatment of  
9 persons with mental illness or habilitation of persons with  
10 developmental disabilities, as the nature of the individual  
11 case may require.

12 Subject to the provisions of this Section, the Department,  
13 except where otherwise provided by law, shall, with respect to  
14 the management, conduct and control of the Chester Mental  
15 Health Center and the discipline, custody and treatment of the  
16 persons confined therein, have and exercise the same rights  
17 and powers as are vested by law in the Department with respect  
18 to any and all of the State facilities for treatment of persons  
19 with mental illness or habilitation of persons with  
20 developmental disabilities, and the recipients thereof, and  
21 shall be subject to the same duties as are imposed by law upon  
22 the Department with respect to such facilities and the  
23 recipients thereof.

24 The Department may elect to place persons who have been  
25 ordered by the court to be detained under the Sexually Violent  
26 Persons Commitment Act in a distinct portion of the Chester

1 Mental Health Center. The persons so placed shall be separated  
2 and shall not comingle with the recipients of the Chester  
3 Mental Health Center. The portion of Chester Mental Health  
4 Center that is used for the persons detained under the  
5 Sexually Violent Persons Commitment Act shall not be a part of  
6 the mental health facility for the enforcement and  
7 implementation of the Mental Health and Developmental  
8 Disabilities Code nor shall their care and treatment be  
9 subject to the provisions of the Mental Health and  
10 Developmental Disabilities Code. The changes added to this  
11 Section by this amendatory Act of the 98th General Assembly  
12 are inoperative on and after June 30, 2015.

13 (Source: P.A. 99-143, eff. 7-27-15; 99-581, eff. 1-1-17;  
14 100-513, eff. 1-1-18.)

15 Section 30. The Guardianship and Advocacy Act is amended  
16 by changing the title of the Act and Sections 2, 3, 4, 5, 6, 7,  
17 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24,  
18 25, 26, 27, 28, 30, 31, 32, 33.5, 34, and 36 and by adding  
19 Section 34.5 as follows:

20 (20 ILCS 3955/Act title)

21 An Act concerning the Department of Disability Advocacy  
22 and Guardianship, created to safeguard the rights of and  
23 advocate for persons with disabilities ~~to create the~~  
24 ~~Guardianship and Advocacy Commission, to safeguard the rights~~

1 ~~and to provide legal counsel and representation for eligible~~  
2 ~~persons and to create the Office of State Guardian for persons~~  
3 ~~with disabilities.~~

4 (20 ILCS 3955/2) (from Ch. 91 1/2, par. 702)

5 Sec. 2. As used in this Act, unless the context requires  
6 otherwise:

7 "Advisory Council" means the Disability Advocacy and  
8 Guardianship Advisory Council created by Section 5-543 of the  
9 Civil Administrative Code of Illinois.

10 ~~(a) "Authority" means a Human Rights Authority.~~

11 ~~(b) "Department Commission" means the Department of~~  
12 ~~Disability Advocacy and Guardianship and Advocacy Commission.~~

13 ~~(c) "Director" means the Director of the Department~~  
14 ~~Guardianship and Advocacy Commission.~~

15 ~~(d) "Guardian" means a court-appointed ~~court-appointed~~~~  
16 ~~guardian for an adult ~~or conservator.~~~~

17 ~~(e) "Services" includes but is not limited to examination,~~  
18 ~~diagnosis, evaluation, treatment, care, training,~~  
19 ~~psychotherapy, pharmaceuticals, after-care, habilitation, and~~  
20 ~~rehabilitation provided for an eligible person.~~

21 ~~(f) "Person" means an individual, corporation,~~  
22 ~~partnership, association, unincorporated organization, or a~~  
23 ~~government or any subdivision, agency, or instrumentality~~  
24 ~~thereof.~~

25 ~~(g) "Eligible persons" means individuals who have~~

1 received, are receiving, have requested, or may be in need of  
2 mental health services, or are "persons with a "developmental  
3 disability" as defined in the federal Developmental  
4 Disabilities Assistance and Bill of Rights Act of 2000 (42  
5 U.S.C. 15002(8)) ~~Services and Facilities Construction Act~~  
6 ~~(Public Law 94 103, Title II)~~, as now or hereafter amended, or  
7 "persons "with one or more disabilities" as defined in the  
8 Rehabilitation of Persons with Disabilities Act.

9 "Regional board" means a regional board of the Division of  
10 Disability Rights and Protections.

11 ~~(h)~~ "Rights" includes but is not limited to all rights,  
12 benefits, and privileges guaranteed by law, the Constitution  
13 of the State of Illinois, and the Constitution of the United  
14 States.

15 ~~(i)~~ "Legal Advocacy ~~Service~~ attorney" means an attorney  
16 employed by or under contract with the Division of Legal  
17 Advocacy ~~Service~~.

18 ~~(j)~~ "Service provider" means any public or private  
19 facility, center, hospital, clinic, program, or any other  
20 person devoted in whole or in part to providing services to  
21 eligible persons.

22 ~~(k)~~ "State Guardian" means the Division ~~Office~~ of State  
23 Guardian.

24 ~~(l)~~ "Ward" means a ward as defined by the Probate Act of  
25 1975, as now or hereafter amended, who is at least 18 years of  
26 age.

1 (Source: P.A. 99-143, eff. 7-27-15.)

2 (20 ILCS 3955/3) (from Ch. 91 1/2, par. 703)

3 Sec. 3. The Department of Disability Advocacy and  
4 Guardianship and Advocacy Commission is hereby created as an  
5 executive agency of state government. The Division of Legal  
6 Advocacy Service, the Division of Disability Rights and  
7 Protections, ~~Human Rights Authority~~ and the Division Office of  
8 State Guardian shall be established as divisions of the  
9 Department Commission.

10 (Source: P.A. 80-1487.)

11 (20 ILCS 3955/4) (from Ch. 91 1/2, par. 704)

12 Sec. 4. (a) The Advisory Council Commission shall consist  
13 of 11 members, ~~one of whom shall be a senior citizen age 60 or~~  
14 ~~over, who shall be~~ appointed by the Governor, with the advice  
15 and consent of the Senate, taking into account the  
16 requirements of State and federal statutes. At least one  
17 member of the Advisory Council shall be a senior citizen age 60  
18 or older. At least one member shall be a person with one or  
19 more disabilities or members of their families who receive  
20 services and support as required under Section 15 of the  
21 Persons with Disabilities on State Agency Boards Act. All  
22 appointments shall be filed with the Secretary of State by the  
23 appointing authority, ~~with the advice and consent of the~~  
24 ~~Senate~~.

1 ~~All appointments shall be filed with the Secretary of~~  
2 ~~State by the appointing authority.~~

3 (b) The ~~terms of the~~ original members of the Advisory  
4 Council shall be the immediate former members of the  
5 Guardianship and Advocacy Commission serving an unexpired term  
6 on the Guardianship and Advocacy Commission on the day before  
7 the effective date of this amendatory Act of the 104th General  
8 Assembly, who shall continue to serve out their immediate  
9 terms on the Advisory Council and may serve up to 2 full  
10 consecutive terms thereafter. Any terms as a member of the  
11 Guardianship and Advocacy Commission immediately preceding the  
12 creation of the Department shall be considered in determining  
13 term limits. The terms shall be 3 years beginning on July 1,  
14 with each member serving no more than 2 full consecutive  
15 terms. All terms shall continue until a successor is appointed  
16 ~~3 one year terms, 3 two year terms, and 3 three year terms, all~~  
17 ~~terms to continue until a successor is appointed and~~  
18 ~~qualified. The length of the terms of the original members~~  
19 ~~shall be drawn by lot of the first meeting held by the~~  
20 ~~Commission. The members first appointed under this amendatory~~  
21 ~~Act of 1984 shall serve for a term of 3 years. Thereafter all~~  
22 ~~terms shall be for 3 years, with each member serving no more~~  
23 ~~than 2 consecutive terms. Vacancies in the membership are to~~  
24 ~~be filled in the same manner as original appointments.~~  
25 Appointments to fill vacancies occurring before the expiration  
26 of a term are for the remainder of the unexpired term. ~~A member~~

1 ~~of the Commission shall serve for a term ending on June 30 and~~  
2 ~~until his successor is appointed and qualified.~~

3 (c) The Advisory Council ~~Commission~~ shall annually elect a  
4 Chair and a Vice-Chair ~~Chairman and any other officers it~~  
5 ~~deems necessary.~~ The Advisory Council ~~Commission~~ shall meet at  
6 least ~~once every 3~~ times annually. A majority of the members of  
7 the Advisory Council, excluding vacancies, constitutes a  
8 quorum ~~months with the times and places of meetings determined~~  
9 ~~by the Chairman. Additional meetings may be called by the~~  
10 ~~Chairman upon written notice 7 days before the meeting or by~~  
11 ~~written petition of 5 members to the Chairman. Six members of~~  
12 ~~the Commission constitute a quorum.~~

13 (d) Members of the Advisory Council ~~Commission~~ are not  
14 entitled to compensation but shall receive reimbursement for  
15 actual expenses incurred in the performance of their duties.

16 (e) The Advisory Council shall advise and make  
17 recommendations to the Department for the development of  
18 policies and operations that will aid in carrying out the  
19 purposes of this Act.

20 (Source: P.A. 83-1538.)

21 (20 ILCS 3955/5) (from Ch. 91 1/2, par. 705)

22 Sec. 5. (a) The Department ~~Commission~~ shall establish  
23 throughout the State such regions as it considers appropriate  
24 to effectuate the purposes of the Division of Disability  
25 Rights and Protections ~~Authority~~ under this Act, taking into

1 account the requirements of State and federal statutes;  
2 population; civic, health and social service boundaries; and  
3 other pertinent factors.

4 (b) The Department may ~~Commission shall~~ act through its  
5 divisions as provided in this Act.

6 (c) The Department ~~Commission~~ shall establish general  
7 policy guidelines for the operation of the Division of Legal  
8 Advocacy Service, the Division of Disability Human Rights and  
9 Protections, Authority and the Division of State Guardian in  
10 furtherance of this Act. The policy guidelines shall ensure  
11 that each division makes decisions with an appropriate level  
12 of independence. Any action taken by a regional board  
13 authority is subject to the review and approval of the  
14 Director ~~Commission~~. The Director ~~Commission, acting on a~~  
15 ~~request from the Director,~~ may disapprove any action of a  
16 regional board ~~authority~~, in which case the regional board  
17 ~~authority~~ shall cease such action.

18 (d) The Director ~~Commission~~ shall hire ~~a Director and~~  
19 staff to carry out the powers and duties of the Department  
20 ~~Commission~~ and its divisions pursuant to this Act and the  
21 rules and regulations promulgated by the Department  
22 ~~Commission~~. All staff, other than the Director, shall be  
23 subject to the Personnel Code.

24 (e) (Blank). ~~The Commission shall review and evaluate the~~  
25 ~~operations of the divisions.~~

26 (f) The Department ~~Commission~~ shall operate subject to the

1 provisions of the Illinois Procurement Code.

2 (g) The Department ~~Commission~~ shall prepare its budget.

3 (h) The Department ~~Commission~~ shall prepare an annual  
4 report on its operations and submit the report to the Governor  
5 and the General Assembly.

6 The requirement for reporting to the General Assembly  
7 shall be satisfied by filing copies of the report as required  
8 by Section 3.1 of the General Assembly Organization Act, and  
9 filing such additional copies with the State Government Report  
10 Distribution Center for the General Assembly as is required  
11 under paragraph (t) of Section 7 of the State Library Act.

12 (i) The Department ~~Commission~~ shall establish rules and  
13 regulations for the conduct of the work of its divisions,  
14 including rules and regulations for the Division of Legal  
15 Advocacy ~~Service~~ and the Division of State Guardian in  
16 evaluating an eligible person's or ward's financial resources  
17 for the purpose of determining whether the eligible person or  
18 ward has the ability to pay for legal or guardianship services  
19 received. The determination of the eligible person's financial  
20 ability to pay for legal services shall be based upon the  
21 number of dependents in the eligible person's family unit and  
22 the income, liquid assets and necessary expenses, as  
23 prescribed by rule of the Department ~~Commission~~ of: (1) the  
24 eligible person; (2) the eligible person's spouse; and (3) the  
25 parents of minor eligible persons. The determination of a  
26 ward's ability to pay for guardianship services shall be based

1 upon the ward's estate. An eligible person or ward found to  
2 have sufficient financial resources shall be required to pay  
3 the Department ~~Commission~~ in accordance with standards  
4 established by the Department ~~Commission~~. No fees may be  
5 charged for legal services given unless the eligible person is  
6 given notice at the start of such services that such fees might  
7 be charged. No fees may be charged for guardianship services  
8 given unless the ward is given notice of the request for fees  
9 filed with the probate court and the court approves the amount  
10 of fees to be assessed. All fees collected shall be deposited  
11 with the State Treasurer and placed in the Guardianship and  
12 Advocacy Fund. The Department ~~Commission~~ shall establish rules  
13 and regulations regarding the procedures of appeal for clients  
14 prior to termination or suspension of legal services. Such  
15 rules and regulations shall include, but not be limited to,  
16 client notification procedures prior to the actual  
17 termination, the scope of issues subject to appeal, and  
18 procedures specifying when a final administrative decision is  
19 made.

20 (j) The Department ~~Commission~~ shall take such actions as  
21 it deems necessary and appropriate to receive private, federal  
22 and other public funds to help support the divisions and to  
23 safeguard the rights of eligible persons. Private funds and  
24 property may be accepted, held, maintained, administered and  
25 disposed of by the Department ~~Commission~~, as trustee, for such  
26 purposes for the benefit of the People of the State of Illinois

1 pursuant to the terms of the instrument granting the funds or  
2 property to the Department Commission.

3 (k) The Department Commission may expend funds under the  
4 State's plan to protect and advocate the rights of persons  
5 with a developmental disability established under the federal  
6 Developmental Disabilities Assistance and Bill of Rights Act  
7 of 2000 ~~Services and Facilities Construction Act (Public Law~~  
8 ~~94-103, Title II)~~. If the Governor designates the Department  
9 ~~Commission~~ to be the organization or agency to provide the  
10 services called for in the State plan, the Department  
11 ~~Commission~~ shall make these protection and advocacy services  
12 available to persons with a developmental disability by  
13 referral or by contracting for these services to the extent  
14 practicable. If the Department Commission is unable to so make  
15 available such protection and advocacy services, it shall  
16 provide them through persons in its own employ.

17 (l) The Department Commission shall, to the extent funds  
18 are available, monitor issues concerning the rights of  
19 eligible persons and the care and treatment provided to those  
20 persons, including but not limited to the incidence of abuse  
21 or neglect of eligible persons. For purposes of that  
22 monitoring the Department Commission shall have access to  
23 reports of suspected abuse or neglect and information  
24 regarding the disposition of such reports, subject to the  
25 provisions of the Mental Health and Developmental Disabilities  
26 Confidentiality Act.

1 (Source: P.A. 100-1148, eff. 12-10-18.)

2 (20 ILCS 3955/6) (from Ch. 91 1/2, par. 706)

3 Sec. 6. (a) The Department ~~Commission~~ may recommend to any  
4 State agency or service provider regulations or procedures for  
5 the purpose of safeguarding the rights of eligible persons.  
6 The State agency or service provider shall notify the  
7 Department ~~Commission~~, within 60 days of the receipt of the  
8 recommendations, of the action taken thereon and the reason  
9 therefor. The Department ~~Commission~~ shall not make  
10 recommendations that ~~which~~ interfere with the proper practice  
11 of medical or other professions.

12 (b) The Department ~~Commission~~ may recommend to the General  
13 Assembly legislation for the purpose of safeguarding the  
14 rights of eligible persons.

15 (c) The Department ~~Commission~~ may take any other action as  
16 may be reasonable to carry out the purposes of this Act.

17 (Source: P.A. 80-1487.)

18 (20 ILCS 3955/7) (from Ch. 91 1/2, par. 707)

19 Sec. 7. The Director shall:

20 (1) carry out the policies and programs of the  
21 Department; ~~Commission and~~

22 (2) coordinate the activities of the ~~its~~ divisions of  
23 the Department; ~~and may delegate to the Human Rights~~  
24 ~~Authority Director any duties described in Sections 14,~~

1 ~~15, and 16 of this Act.~~

2 (3) organize and administer programs to provide legal  
3 counsel and representation for eligible persons to ensure  
4 that their legal rights are protected;

5 (4) examine and delineate the needs of eligible  
6 persons for legal counsel and representation and the  
7 resources necessary to meet those needs, subject to the  
8 approval of the Department; and

9 (5) institute or cause to be instituted legal  
10 proceedings as may be necessary to enforce and give effect  
11 to any of the duties or powers of the Department or its  
12 divisions.

13 (Source: P.A. 96-271, eff. 1-1-10.)

14 (20 ILCS 3955/8) (from Ch. 91 1/2, par. 708)

15 Sec. 8. The Director may delegate to employees of the  
16 Department any of the duties described in Section 7 of this  
17 Act. shall:

18 ~~(1) Organize and administer programs to provide legal~~  
19 ~~counsel and representation for eligible persons so as to~~  
20 ~~ensure that their legal rights are protected;~~

21 ~~(2) Examine and delineate the needs of eligible persons~~  
22 ~~for legal counsel and representation and the resources~~  
23 ~~necessary to meet those needs, subject to the approval of the~~  
24 ~~Commission; and~~

25 ~~(3) Institute or cause to be instituted such legal~~

1 ~~proceedings as may be necessary to enforce and give effect to~~  
2 ~~any of the duties or powers of the Commission or its divisions.~~

3 (Source: P.A. 80-1487.)

4 (20 ILCS 3955/10) (from Ch. 91 1/2, par. 710)

5 Sec. 10. The Division of Legal Advocacy ~~Service~~ shall:

6 (1) Make available legal counsel to eligible persons in  
7 judicial proceedings arising out of the "Mental Health and  
8 Developmental Disabilities Code", enacted by the Eightieth  
9 General Assembly, as now or hereafter amended, including but  
10 not limited to admission, civil commitment, involuntary  
11 treatment, ~~legal competency~~ and discharge;

12 (2) Make available or provide legal counsel and  
13 representation to eligible persons to enforce rights or duties  
14 arising out of any mental health or related laws, local, State  
15 or federal.

16 (Source: P.A. 80-1487.)

17 (20 ILCS 3955/11) (from Ch. 91 1/2, par. 711)

18 Sec. 11. The Division of Legal Advocacy ~~Service~~ shall make  
19 available counsel for eligible persons by referral or by  
20 contracting for legal services to the extent practicable. The  
21 Division of Legal Advocacy ~~Service~~ shall make a good faith  
22 effort to assist eligible persons to engage private counsel,  
23 and to contact private counsel for eligible persons whose  
24 disabilities limit their capacity to independently contact

1 private counsel. If the Division of Legal Advocacy ~~Service~~ is  
2 unable to so make available counsel, it shall provide  
3 attorneys in its own employ. Taking into consideration the  
4 availability of private counsel in the eligible person's local  
5 area, the Department ~~Commission~~ shall establish, by rule, the  
6 standards and procedures by which it will attempt to assist  
7 eligible persons to engage private counsel.

8 (Source: P.A. 84-1358.)

9 (20 ILCS 3955/12) (from Ch. 91 1/2, par. 712)

10 Sec. 12. A Legal Advocacy ~~Service~~ attorney shall:

11 (1) have ready access to view and copy all mental health  
12 records pertaining to his client, ~~as provided in the "Mental~~  
13 ~~Health and Developmental Disabilities Confidentiality Act",~~  
14 ~~enacted by the Eightieth General Assembly, as now or hereafter~~  
15 ~~amended,~~ and such other records to which he is permitted  
16 access; and

17 (2) have the opportunity to consult with his client  
18 whenever necessary for the performance of his duties. Service  
19 providers shall provide adequate space and privacy for the  
20 purpose of attorney-client consultation. No attorney shall  
21 have the right to visit eligible persons or look at their  
22 records for the purpose of soliciting cases for  
23 representation.

24 (Source: P.A. 80-1487.)

1 (20 ILCS 3955/13) (from Ch. 91 1/2, par. 713)

2 Sec. 13. Nothing in this Act shall be construed to  
3 prohibit an eligible person from being represented by  
4 privately retained counsel or from waiving his right to an  
5 attorney in proceedings under the "Mental Health and  
6 Developmental Disabilities Code", approved by the Eightieth  
7 General Assembly, as now or hereafter amended, or as otherwise  
8 provided by law. If a Legal Advocacy ~~Service~~ attorney has been  
9 appointed by a court and the eligible person secures his own  
10 counsel or is permitted to self-represent, the court shall  
11 discharge the Legal Advocacy ~~Service~~ attorney.

12 (Source: P.A. 80-1487.)

13 (20 ILCS 3955/14) (from Ch. 91 1/2, par. 714)

14 Sec. 14. Each regional board ~~authority~~ shall consist of at  
15 least 7 members and no more than 9 members appointed by the  
16 Director, in accordance with this Section. Each regional board  
17 ~~authority~~ shall include insofar as possible one professionally  
18 knowledgeable and broadly experienced employee or officer of a  
19 provider of each of the following services: mental health,  
20 developmental disabilities, and vocational rehabilitation. No  
21 other employee or officer of a service provider shall be  
22 appointed to a regional board ~~authority~~. In making  
23 appointments, the Director shall strive to ensure  
24 representation of minority groups and of eligible persons, and  
25 shall give due consideration to recommendations of persons and

1 groups assisting eligible persons. The Director may remove for  
2 incompetence, neglect of duty, or malfeasance in office any  
3 member of a regional board authority. Each member of a  
4 regional board shall become a member of a regional board while  
5 retaining the existing end date of the member's current term.  
6 All terms shall be for 3 years, with each member serving no  
7 more than 2 consecutive terms, including terms as a member of a  
8 regional authority of the Guardianship and Advocacy Commission  
9 immediately preceding the creation of the Department. No  
10 member shall serve for more than 2 full consecutive 3-year  
11 terms. A quorum shall consist of a majority of appointed  
12 members, excluding vacancies ~~All actions taken by the Director~~  
13 ~~to appoint or remove members shall be reported to the~~  
14 ~~Commission at the next scheduled Commission meeting.~~

15 Each regional board authority shall annually elect a Chair  
16 ~~chairman~~ and any other officers it deems necessary. ~~Members of~~  
17 ~~the regional authorities shall serve for a term of 3 years,~~  
18 ~~except that the terms of the first appointees shall be as~~  
19 ~~follows: 3 members serving for a 1 year term; 3 members serving~~  
20 ~~for a 2 year term; and 3 members serving for a 3 year term.~~  
21 ~~Assignment of terms of such first appointees shall be by lot.~~  
22 ~~No member shall serve for more than 2 consecutive 3 year terms.~~  
23 ~~A quorum shall consist of a majority of appointed members.~~

24 Vacancies in the regional board authorities shall be  
25 filled by the Director. Appointments to fill vacancies  
26 occurring before the expiration of a term are for the

1 remainder of the unexpired term ~~in the same manner as original~~  
2 ~~appointments.~~

3 Members of the regional board ~~authorities~~ shall serve  
4 without compensation but shall be reimbursed for actual  
5 expenses incurred in the performance of their duties.

6 Each regional board ~~authority~~ shall meet not less than  
7 once every 2 months. Meetings may also be held upon call of the  
8 Regional Chair ~~Chairman~~ or upon written request of a majority  
9 of the appointed ~~any~~ <sup>5</sup> members of the regional board,  
10 excluding vacancies ~~authority~~.

11 (Source: P.A. 104-273, eff. 1-1-26.)

12 (20 ILCS 3955/15) (from Ch. 91 1/2, par. 715)

13 Sec. 15. A regional board ~~that authority which~~ receives a  
14 complaint alleging that the rights of an eligible person have  
15 been violated in the region in which the regional board  
16 ~~authority~~ sits, shall conduct an investigation unless it  
17 determines that the complaint is frivolous or beyond the scope  
18 of its authority or competence, or unless the Director finds  
19 that a conflict of interest exists and directs another  
20 regional board ~~authority~~ to conduct the investigation. The  
21 regional board ~~authority~~ shall inform the complainant of  
22 whether it will conduct an investigation, and if not, the  
23 reason therefor. The regional board ~~authority~~ may advise a  
24 complainant as to other remedies which may be available.  
25 Reassignments of investigations for conflicts of interest and

1 refusals to investigate shall be reviewed and approved by the  
2 Director ~~and the Director may seek direction from the~~  
3 ~~Commission.~~

4 (Source: P.A. 96-271, eff. 1-1-10.)

5 (20 ILCS 3955/16) (from Ch. 91 1/2, par. 716)

6 Sec. 16. A regional board ~~authority~~ may conduct  
7 investigations upon its own initiative if it has reason to  
8 believe that the rights of an eligible person have been  
9 violated in the region in which the regional board ~~authority~~  
10 sits, unless the Director finds that a conflict of interest  
11 exists and directs another regional board ~~authority~~ to conduct  
12 the investigation.

13 (Source: P.A. 96-271, eff. 1-1-10.)

14 (20 ILCS 3955/17) (from Ch. 91 1/2, par. 717)

15 Sec. 17. In the course of an investigation, a regional  
16 board ~~authority~~ may enter and inspect the premises of a  
17 service provider or State agency and question privately any  
18 person therein within reasonable limits and in a reasonable  
19 manner. Whenever possible, prior notice shall be given the  
20 parties regarding the nature, location, and persons involved  
21 in a particular investigation.

22 (Source: P.A. 80-1416.)

23 (20 ILCS 3955/18) (from Ch. 91 1/2, par. 718)

1           Sec. 18. In the course of an investigation, a regional  
2 board authority may inspect and copy any materials relevant to  
3 the investigation in the possession of a service provider or  
4 state agency. However, a regional board authority may not  
5 inspect or copy materials containing personally identifiable  
6 data which cannot ~~can not~~ be removed without imposing an  
7 unreasonable burden on the service provider or State agency,  
8 except as provided herein. The regional board authority shall  
9 give written notice to the person entitled to give consent for  
10 the identifiable eligible person under Section 5 of the  
11 "Mental Health and Developmental Disabilities Confidentiality  
12 Act", enacted by the Eightieth General Assembly, as now or  
13 hereafter amended, or under any other relevant law, that it is  
14 conducting an investigation and indicating the nature and  
15 purpose of the investigation and the need to inspect and copy  
16 materials containing data that identifies the eligible person.  
17 If the person notified objects in writing to such inspection  
18 and copying, the regional board authority may not inspect or  
19 copy such materials. The service provider or State agency may  
20 not object on behalf of an eligible person.

21       (Source: P.A. 80-1487.)

22           (20 ILCS 3955/19) (from Ch. 91 1/2, par. 719)

23           Sec. 19. No regional board authority may disclose to any  
24 person any materials which identify an eligible person unless  
25 the eligible person or legally authorized person consents to

1 such disclosure, except if and to the extent that disclosure  
2 may be necessary for the appointment of a guardian for such  
3 eligible person.

4 (Source: P.A. 80-1487.)

5 (20 ILCS 3955/20) (from Ch. 91 1/2, par. 720)

6 Sec. 20. A regional board ~~authority~~ may conduct hearings  
7 and compel by subpoena the attendance and testimony of such  
8 witnesses and the production of such materials as are  
9 necessary or desirable for its investigation.

10 (Source: P.A. 80-1487.)

11 (20 ILCS 3955/21) (from Ch. 91 1/2, par. 721)

12 Sec. 21. A regional board ~~authority~~ may, subject to the  
13 provisions of the Open Meetings Act, conduct closed meetings  
14 and hearings when necessary to ensure confidentiality or to  
15 protect the rights of any eligible person or provider of  
16 services or other person. However, it shall make public a  
17 summary of business conducted during any such meeting or  
18 hearing. Such summary shall not contain personally  
19 identifiable data.

20 (Source: P.A. 96-271, eff. 1-1-10.)

21 (20 ILCS 3955/22) (from Ch. 91 1/2, par. 722)

22 Sec. 22. During the course of an investigation, the  
23 regional board ~~authority~~ shall periodically inform the

1 complainant, or provider and any eligible person involved of  
2 the status of the investigation.

3 (Source: P.A. 80-1487.)

4 (20 ILCS 3955/23) (from Ch. 91 1/2, par. 723)

5 Sec. 23. If a regional board ~~authority~~ finds that:

6 A. a matter should be further considered;

7 B. an act investigated should be modified or cancelled;

8 C. a statute or regulation should be altered;

9 D. reasons should be given for an act; or

10 E. any other action should be taken;

11 it shall report its recommendations to the State agency,  
12 service provider or other person investigated. Such person  
13 investigated shall notify the regional board ~~authority~~, within  
14 30 days of the receipt of such recommendations, of the action  
15 taken thereon and the reason therefor.

16 (Source: P.A. 80-1416.)

17 (20 ILCS 3955/24) (from Ch. 91 1/2, par. 724)

18 Sec. 24. If a regional board ~~authority~~ determines that  
19 further action is required, it may refer a matter to the  
20 Director ~~Commission~~ or another division of the Department  
21 ~~thereof~~, and any federal, State, or local agency, or other  
22 persons, as it may deem appropriate and as approved by the  
23 Director, ~~as it may deem appropriate and as approved by the~~  
24 ~~Director~~.

1 (Source: P.A. 96-271, eff. 1-1-10.)

2 (20 ILCS 3955/25) (from Ch. 91 1/2, par. 725)

3 Sec. 25. Within 10 days of the completion of its  
4 investigation, the regional board ~~authority~~ shall inform the  
5 complainant and the eligible person involved of the outcome of  
6 its investigation and of any action taken thereon.

7 (Source: P.A. 80-1487.)

8 (20 ILCS 3955/26) (from Ch. 91 1/2, par. 726)

9 Sec. 26. Subject to the provisions of Section 19, a  
10 regional board ~~authority~~ may make public its findings and  
11 recommendations. It shall include in any such public statement  
12 any reply made by the State agency, service provider, or other  
13 person investigated that has requested that the reply be so  
14 included. The State agency, service provider, or other person  
15 investigated ~~provider or person~~ shall have opportunity to  
16 review and object to any proposed public findings and  
17 recommendations. If the State agency, service provider, or  
18 other person investigated requests, the objections shall be  
19 included with public findings and recommendations issued by  
20 the regional board ~~authority~~ in the ~~this~~ matter.

21 (Source: P.A. 80-1416.)

22 (20 ILCS 3955/27) (from Ch. 91 1/2, par. 727)

23 Sec. 27. A regional board ~~authority~~ may, ~~by acting through~~

1 ~~the Director,~~ propose to the Department Commission legislation  
2 for the purpose of safeguarding the rights of eligible  
3 persons.

4 (Source: P.A. 96-271, eff. 1-1-10.)

5 (20 ILCS 3955/28) (from Ch. 91 1/2, par. 728)

6 Sec. 28. A regional board ~~authority~~ may take such other  
7 action as may be reasonable and appropriate to carry out the  
8 purposes of this Act.

9 (Source: P.A. 80-1416.)

10 (20 ILCS 3955/30) (from Ch. 91 1/2, par. 730)

11 Sec. 30. When appointed by the court pursuant to the  
12 "~~Probate Act of 1975~~", ~~approved August 7, 1975~~, as now or  
13 hereafter amended, the Division of State Guardian shall serve  
14 as guardian, either plenary or limited; temporary guardian;  
15 testamentary guardian; or successor guardian, of the person or  
16 the estate, or both, of a ward. If nomination is testamentary  
17 the Division of State Guardian shall be notified in writing at  
18 the time of the death of the testator. The Division Office of  
19 State Guardian may file a petition for its own appointment, or  
20 for the appointment of any other person, if the Division of  
21 State Guardian determines that the filing of the petition may  
22 avoid the need for State guardianship. In addition, the  
23 Division of State Guardian may assist the court, as the court  
24 may request, in proceedings for the appointment of a guardian

1 and in the supervision of persons and agencies which have been  
2 appointed as guardians.

3 (Source: P.A. 89-396, eff. 8-20-95.)

4 (20 ILCS 3955/31) (from Ch. 91 1/2, par. 731)

5 Sec. 31. Appointment; availability of Division of State  
6 Guardian; available private guardian.

7 (a) The Division of State Guardian shall not be appointed  
8 if another suitable person is available and willing to accept  
9 the guardianship appointment. In all cases where a court  
10 appoints the Division of State Guardian, the court shall  
11 indicate in the order appointing the guardian as a finding of  
12 fact that no other suitable and willing person could be found  
13 to accept the guardianship appointment. On and after the  
14 effective date of the ~~this~~ amendatory Act of the 97th General  
15 Assembly, the court shall also indicate in the order, as a  
16 finding of fact, the reasons that the Division of State  
17 Guardian appointment, rather than the appointment of another  
18 interested party, is required. This requirement shall be  
19 waived where the Division ~~Office~~ of State Guardian petitions  
20 for its own appointment as guardian.

21 (b) In all cases in which the Division of State Guardian  
22 has been appointed to prior to or after the effective date of  
23 this amendatory Act of the 104th General Assembly, the  
24 Division of State Guardian shall be recognized as a division  
25 of the Department. Any reference in law, regulation, order, or

1 appointment to the State Guardian or Office of State Guardian  
2 as a division of the Guardianship and Advocacy Commission  
3 shall be deemed to refer to the State Guardian as a division of  
4 the Department of Disability Advocacy and Guardianship. This  
5 subsection applies retroactively and prospectively to all  
6 appointments, actions, and proceedings involving the State  
7 Guardian or its wards.

8 (Source: P.A. 97-1093, eff. 1-1-13.)

9 (20 ILCS 3955/32) (from Ch. 91 1/2, par. 732)

10 Sec. 32. The Division of State Guardian shall have the  
11 same powers and duties as a private guardian as provided in  
12 Article XIa of the Probate Act of 1975, ~~approved August 7,~~  
13 ~~1975.~~ The State Guardian shall not provide direct residential  
14 services to its wards. The State Guardian shall visit and  
15 consult with its wards at least four times a year for as long  
16 as the guardianship continues.

17 (Source: P.A. 80-1416.)

18 (20 ILCS 3955/33.5)

19 Sec. 33.5. Guardianship training program. The State  
20 Guardian shall provide a training program that outlines the  
21 duties and responsibilities of guardians appointed under  
22 Article XIa of the Probate Act of 1975. The training program  
23 shall be offered to courts at no cost, and shall outline the  
24 duties ~~responsibilities~~ of a guardian and the rights of a

1 person under guardianship. The training program shall have 2  
2 components: one for guardians of the person and another for  
3 guardians of the estate. The State Guardian shall determine  
4 the content of the training. The component for guardians of  
5 the person shall include content regarding Alzheimer's disease  
6 and dementia, including, but not limited to, the following  
7 topics: effective communication strategies; best practices for  
8 interacting with people living with Alzheimer's disease or  
9 related forms of dementia; and strategies for supporting  
10 people living with Alzheimer's disease or related forms of  
11 dementia in exercising their rights. In developing the  
12 training program content, the State Guardian shall consult  
13 with the courts, State and national guardianship  
14 organizations, public guardians, advocacy organizations, and  
15 persons and family members with direct experience with adult  
16 guardianship. In the preparation and dissemination of training  
17 materials, the State Guardian shall give due consideration to  
18 making the training materials accessible to persons with  
19 disabilities.

20 (Source: P.A. 103-64, eff. 1-1-24; 104-237, eff. 1-1-26.)

21 (20 ILCS 3955/34) (from Ch. 91 1/2, par. 734)

22 Sec. 34. A person, including a private citizen or employee  
23 of a service provider, who, in good faith, files a complaint  
24 with or provides information to the Department or any of its  
25 divisions ~~Commission or any division thereof, including~~

1 ~~private citizens and employees of service providers,~~ shall not  
2 be subject to any penalties, sanctions, or restrictions as a  
3 consequence of filing the complaint or providing the  
4 information.

5 (Source: P.A. 80-1416.)

6 (20 ILCS 3955/34.5 new)

7 Sec. 34.5. Prohibit interference with Department. No  
8 person shall willfully interfere with the performance of a  
9 duty or the exercise of a power by the Department or an officer  
10 or employee of the Department.

11 (20 ILCS 3955/36) (from Ch. 91 1/2, par. 736)

12 Sec. 36. Rules and regulations adopted by the Department  
13 ~~Commission~~ pursuant to authority granted under this Act shall  
14 be subject to the provisions of the Illinois Administrative  
15 Procedure Act.

16 (Source: P.A. 84-1358.)

17 (20 ILCS 3955/35 rep.)

18 Section 33. The Guardianship and Advocacy Act is amended  
19 by repealing Section 35.

20 Section 35. The Persons with Disabilities on State Agency  
21 Boards Act is amended by changing Section 10 as follows:

1 (20 ILCS 4007/10)

2 Sec. 10. Definitions. As used in this Act, unless the  
3 context requires otherwise:

4 "Disability" means a physical or mental characteristic  
5 resulting from disease, injury, congenital condition of birth,  
6 or functional disorder, the history of such a characteristic,  
7 or the perception of such a characteristic, when the  
8 characteristic results in substantial functional limitations  
9 in 3 or more of the following areas of major life activity:  
10 self care, fine motor skills, mobility, vision, respiration,  
11 learning, work, receptive and expressive language (hearing and  
12 speaking), self direction, capacity for independent living,  
13 and economic sufficiency.

14 "State human services agency" means the following:

15 (1) The Citizens Council on Mental Health and  
16 Developmental Disabilities created under Article 11A of  
17 the Legislative Commission Reorganization Act of 1984.

18 (2) Advisory councils created by the Department of  
19 Human Rights under Section 7-107 of the Illinois Human  
20 Rights Act.

21 (3) The Department of Disability Advocacy and  
22 Guardianship and Advocacy Commission created under the  
23 Guardianship and Advocacy Act.

24 (4) (Blank).

25 (Source: P.A. 100-866, eff. 8-14-18.)

1 Section 45. The State Finance Act is amended by changing  
2 Section 6z-22 as follows:

3 (30 ILCS 105/6z-22) (from Ch. 127, par. 142z-22)

4 Sec. 6z-22. All fees or other monies received by the  
5 Department of Disability Advocacy and Guardianship ~~and~~  
6 ~~Advocacy Commission~~ incident to the provision of legal or  
7 guardianship services to eligible persons or wards pursuant to  
8 subsection (i) of Section 5 of the Guardianship and Advocacy  
9 Act shall be paid into the Guardianship and Advocacy Fund.

10 Appropriations for the improvement, development, addition  
11 or expansion of legal and guardianship services for eligible  
12 persons or wards pursuant to Section 5 of the Guardianship and  
13 Advocacy Act or for the financing of any program designed to  
14 provide such improvement, development, addition or expansion  
15 of services or for expenses incurred in administering the  
16 Division of Human Rights Authority, Legal Advocacy, the  
17 Division of Disability Rights and Protections, and the  
18 Division Service and Office of State Guardian are payable from  
19 the Guardianship and Advocacy Fund.

20 (Source: P.A. 86-448; 86-1028.)

21 Section 50. The Public Interest Attorney Assistance Act is  
22 amended by changing Section 15 as follows:

23 (110 ILCS 916/15)

1           Sec. 15. Definitions. For the purposes of this Act:

2           "Assistant State's Attorney" means a full-time employee of  
3 a State's Attorney in Illinois or the State's Attorneys  
4 Appellate Prosecutor who is continually licensed to practice  
5 law and prosecutes or defends cases on behalf of the State or a  
6 county.

7           "Assistant Attorney General" means a full-time employee of  
8 the Illinois Attorney General who is continually licensed to  
9 practice law and prosecutes or defends cases on behalf of the  
10 State.

11           "Assistant Public Defender" means a full-time employee of  
12 a Public Defender in Illinois or the State Appellate Defender  
13 who is continually licensed to practice law and provides legal  
14 representation to indigent persons, as provided by statute.

15           "Assistant public guardian" means a full-time employee of  
16 a public guardian in Illinois who is continually licensed to  
17 practice law and provides legal representation pursuant to  
18 court appointment.

19           "Civil legal aid" means free or reduced-cost legal  
20 representation or advice to low-income clients in non-criminal  
21 matters.

22           "Civil legal aid attorney" means an attorney who is  
23 continually licensed to practice law and is employed full time  
24 as an attorney at a civil legal aid organization in Illinois.

25           "Civil legal aid organization" means a not-for-profit  
26 corporation in Illinois that (i) is exempt from the payment of

1 federal income tax pursuant to Section 501(c)(3) of the  
2 Internal Revenue Code, (ii) is established for the purpose of  
3 providing legal services that include civil legal aid, (iii)  
4 employs 2 or more full-time attorneys who are licensed to  
5 practice law in this State and who directly provide civil  
6 legal aid, and (iv) is in compliance with registration and  
7 filing requirements that are applicable under the Charitable  
8 Trust Act and the Solicitation for Charity Act.

9 "Commission" means the Illinois Student Assistance  
10 Commission.

11 "Committee" means the advisory committee created under  
12 Section 20 of this Act.

13 "Eligible debt" means outstanding principal, interest, and  
14 related fees from loans obtained for undergraduate, graduate,  
15 or law school educational expenses made by government or  
16 commercial lending institutions or educational institutions.  
17 "Eligible debt" excludes loans made by a private individual or  
18 family member.

19 "Department of Disability Advocacy and Guardianship ~~ICAC~~  
20 attorney" means a full-time employee of the Department of  
21 Disability ~~Illinois Guardianship and~~ Advocacy and Guardianship  
22 ~~Commission~~, including the Division ~~Office~~ of State Guardian,  
23 the Division of Legal Advocacy ~~Service~~, and the Division of  
24 Disability ~~Human~~ Rights and Protections ~~Authority~~, who is  
25 continually licensed to practice law and provides legal  
26 representation to carry out the responsibilities of the

1 Department of Disability Advocacy and ~~Illinois~~ Guardianship  
2 and Advocacy Commission.

3 "Legislative attorney" means a full-time employee of the  
4 Illinois Senate, the Illinois House of Representatives, or the  
5 Illinois Legislative Reference Bureau who is continually  
6 licensed to practice law and provides legal advice to members  
7 of the General Assembly.

8 "Program" means the Public Interest Attorney Loan  
9 Repayment Assistance Program.

10 "Public interest attorney" means an attorney practicing in  
11 Illinois who is an assistant State's Attorney, assistant  
12 Public Defender, civil legal aid attorney, assistant Attorney  
13 General, assistant public guardian, Department of Disability  
14 Advocacy and Guardianship ~~ICAC~~ attorney, or legislative  
15 attorney.

16 "Qualifying employer" means (i) an Illinois State's  
17 Attorney or the State's Attorneys Appellate Prosecutor, (ii)  
18 an Illinois Public Defender or the State Appellate Defender,  
19 (iii) an Illinois civil legal aid organization, (iv) the  
20 Illinois Attorney General, (v) an Illinois public guardian,  
21 (vi) the Department of Disability Advocacy and ~~Illinois~~  
22 Guardianship and Advocacy Commission, (vii) the Illinois  
23 Senate, (viii) the Illinois House of Representatives, or (ix)  
24 the Illinois Legislative Reference Bureau.

25 (Source: P.A. 96-615, eff. 1-1-10; 96-768, eff. 1-1-10.)

1           Section 55. The Abused and Neglected Long Term Care  
2 Facility Residents Reporting Act is amended by changing  
3 Sections 4 and 6 as follows:

4           (210 ILCS 30/4) (from Ch. 111 1/2, par. 4164)

5           Sec. 4. Any long term care facility administrator, agent  
6 or employee or any physician, hospital, surgeon, dentist,  
7 osteopath, chiropractor, podiatric physician, accredited  
8 religious practitioner who provides treatment by spiritual  
9 means alone through prayer in accordance with the tenets and  
10 practices of the accrediting church, coroner, social worker,  
11 social services administrator, registered nurse, law  
12 enforcement officer, field personnel of the Department of  
13 Healthcare and Family Services, field personnel of the  
14 Illinois Department of Public Health and County or Municipal  
15 Health Departments, personnel of the Department of Human  
16 Services (acting as the successor to the Department of Mental  
17 Health and Developmental Disabilities or the Department of  
18 Public Aid), personnel of the Department of Disability  
19 Advocacy and Guardianship (acting as the successor to the  
20 Guardianship and Advocacy Commission), personnel of the State  
21 Fire Marshal, local fire department inspectors or other  
22 personnel, or personnel of the Illinois Department on Aging,  
23 or its subsidiary Agencies on Aging, or employee of a facility  
24 licensed under the Assisted Living and Shared Housing Act,  
25 having reasonable cause to believe any resident with whom they

1 have direct contact has been subjected to abuse or neglect  
2 shall immediately report or cause a report to be made to the  
3 Department. Persons required to make reports or cause reports  
4 to be made under this Section include all employees of the  
5 State of Illinois who are involved in providing services to  
6 residents, including professionals providing medical or  
7 rehabilitation services and all other persons having direct  
8 contact with residents; and further include all employees of  
9 community service agencies who provide services to a resident  
10 of a public or private long term care facility outside of that  
11 facility. Any long term care surveyor of the Illinois  
12 Department of Public Health who has reasonable cause to  
13 believe in the course of a survey that a resident has been  
14 abused or neglected and initiates an investigation while on  
15 site at the facility shall be exempt from making a report under  
16 this Section but the results of any such investigation shall  
17 be forwarded to the central register in a manner and form  
18 described by the Department.

19 The requirement of this Act shall not relieve any  
20 long-term ~~long-term~~ care facility administrator, agent or  
21 employee of responsibility to report the abuse or neglect of a  
22 resident under Section 3-610 of the Nursing Home Care Act or  
23 under Section 3-610 of the ID/DD Community Care Act or under  
24 Section 3-610 of the MC/DD Act or under Section 2-107 of the  
25 Specialized Mental Health Rehabilitation Act of 2013.

26 In addition to the above persons required to report

1 suspected resident abuse and neglect, any other person may  
2 make a report to the Department, or to any law enforcement  
3 officer, if such person has reasonable cause to suspect a  
4 resident has been abused or neglected.

5 This Section also applies to residents whose death occurs  
6 from suspected abuse or neglect before being found or brought  
7 to a hospital.

8 A person required to make reports or cause reports to be  
9 made under this Section who fails to comply with the  
10 requirements of this Section is guilty of a Class A  
11 misdemeanor.

12 (Source: P.A. 98-104, eff. 7-22-13; 98-214, eff. 8-9-13;  
13 98-756, eff. 7-16-14; 99-180, eff. 7-29-15.)

14 (210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

15 Sec. 6. All reports of suspected abuse or neglect made  
16 under this Act shall be made immediately by telephone to the  
17 Department's central register established under Section 14 on  
18 the single, State-wide, toll-free telephone number established  
19 under Section 13, or in person or by telephone through the  
20 nearest Department office. No long-term ~~long-term~~ care  
21 facility administrator, agent or employee, or any other  
22 person, shall screen reports or otherwise withhold any reports  
23 from the Department, and no long-term ~~long-term~~ care facility,  
24 department of State government, or other agency shall  
25 establish any rules, criteria, standards or guidelines to the

1 contrary. Every long-term ~~long-term~~ care facility, department  
2 of State government and other agency whose employees are  
3 required to make or cause to be made reports under Section 4  
4 shall notify its employees of the provisions of that Section  
5 and of this Section, and provide to the Department  
6 documentation that such notification has been given. The  
7 Department of Human Services shall train all of its mental  
8 health and developmental disabilities employees in the  
9 detection and reporting of suspected abuse and neglect of  
10 residents. Reports made to the central register through the  
11 State-wide, toll-free telephone number shall be transmitted to  
12 appropriate Department offices and municipal health  
13 departments that have responsibility for licensing long term  
14 care facilities under the Nursing Home Care Act, the  
15 Specialized Mental Health Rehabilitation Act of 2013, the  
16 ID/DD Community Care Act, or the MC/DD Act. All reports  
17 received through offices of the Department shall be forwarded  
18 to the central register, in a manner and form described by the  
19 Department. The Department shall be capable of receiving  
20 reports of suspected abuse and neglect 24 hours a day, 7 days a  
21 week. Reports shall also be made in writing deposited in the  
22 U.S. mail, postage prepaid, within 24 hours after having  
23 reasonable cause to believe that the condition of the resident  
24 resulted from abuse or neglect. Such reports may in addition  
25 be made to the local law enforcement agency in the same manner.  
26 However, in the event a report is made to the local law

1 enforcement agency, the reporter also shall immediately so  
2 inform the Department. The Department shall initiate an  
3 investigation of each report of resident abuse and neglect  
4 under this Act, whether oral or written, as provided for in  
5 Section 3-702 of the Nursing Home Care Act, Section 2-208 of  
6 the Specialized Mental Health Rehabilitation Act of 2013,  
7 Section 3-702 of the ID/DD Community Care Act, or Section  
8 3-702 of the MC/DD Act, except that reports of abuse which  
9 indicate that a resident's life or safety is in imminent  
10 danger shall be investigated within 24 hours of such report.  
11 The Department may delegate to law enforcement officials or  
12 other public agencies the duty to perform such investigation.

13 With respect to investigations of reports of suspected  
14 abuse or neglect of residents of mental health and  
15 developmental disabilities institutions under the jurisdiction  
16 of the Department of Human Services, the Department shall  
17 transmit copies of such reports to the Illinois State Police,  
18 the Department of Human Services, and the Inspector General  
19 appointed under Section 1-17 of the Department of Human  
20 Services Act. If the Department receives a report of suspected  
21 abuse or neglect of a recipient of services as defined in  
22 Section 1-123 of the Mental Health and Developmental  
23 Disabilities Code, the Department shall transmit copies of  
24 such report to the Inspector General and the Director  
25 ~~Directors~~ of the Disability Advocacy and Guardianship and  
26 ~~Advocacy Commission~~ and the agency designated by the Governor

1 pursuant to the Protection and Advocacy for Persons with  
2 Developmental Disabilities Act. When requested by the Director  
3 of ~~the~~ Disability Advocacy and Guardianship and Advocacy  
4 ~~Commission~~, the agency designated by the Governor pursuant to  
5 the Protection and Advocacy for Persons with Developmental  
6 Disabilities Act, or the Department of Financial and  
7 Professional Regulation, the Department, the Department of  
8 Human Services and the Illinois State Police shall make  
9 available a copy of the final investigative report regarding  
10 investigations conducted by their respective agencies on  
11 incidents of suspected abuse or neglect of residents of mental  
12 health and developmental disabilities institutions or  
13 individuals receiving services at community agencies under the  
14 jurisdiction of the Department of Human Services. Such final  
15 investigative report shall not contain witness statements,  
16 investigation notes, draft summaries, results of lie detector  
17 tests, investigative files or other raw data which was used to  
18 compile the final investigative report. Specifically, the  
19 final investigative report of the Illinois State Police shall  
20 mean the Director's final transmittal letter. The Department  
21 of Human Services shall also make available a copy of the  
22 results of disciplinary proceedings of employees involved in  
23 incidents of abuse or neglect to the Directors. All  
24 identifiable information in reports provided shall not be  
25 further disclosed except as provided by the Mental Health and  
26 Developmental Disabilities Confidentiality Act. Nothing in

1 this Section is intended to limit or construe the power or  
2 authority granted to the agency designated by the Governor  
3 pursuant to the Protection and Advocacy for Persons with  
4 Developmental Disabilities Act, pursuant to any other State or  
5 federal statute.

6 With respect to investigations of reported resident abuse  
7 or neglect, the Department shall effect with appropriate law  
8 enforcement agencies formal agreements concerning methods and  
9 procedures for the conduct of investigations into the criminal  
10 histories of any administrator, staff assistant or employee of  
11 the nursing home or other person responsible for the residents  
12 care, as well as for other residents in the nursing home who  
13 may be in a position to abuse, neglect or exploit the patient.  
14 Pursuant to the formal agreements entered into with  
15 appropriate law enforcement agencies, the Department may  
16 request information with respect to whether the person or  
17 persons set forth in this paragraph have ever been charged  
18 with a crime and if so, the disposition of those charges.  
19 Unless the criminal histories of the subjects involved crimes  
20 of violence or resident abuse or neglect, the Department shall  
21 be entitled only to information limited in scope to charges  
22 and their dispositions. In cases where prior crimes of  
23 violence or resident abuse or neglect are involved, a more  
24 detailed report can be made available to authorized  
25 representatives of the Department, pursuant to the agreements  
26 entered into with appropriate law enforcement agencies. Any

1 criminal charges and their disposition information obtained by  
2 the Department shall be confidential and may not be  
3 transmitted outside the Department, except as required herein,  
4 to authorized representatives or delegates of the Department,  
5 and may not be transmitted to anyone within the Department who  
6 is not duly authorized to handle resident abuse or neglect  
7 investigations.

8 The Department shall effect formal agreements with  
9 appropriate law enforcement agencies in the various counties  
10 and communities to encourage cooperation and coordination in  
11 the handling of resident abuse or neglect cases pursuant to  
12 this Act. The Department shall adopt and implement methods and  
13 procedures to promote statewide uniformity in the handling of  
14 reports of abuse and neglect under this Act, and those methods  
15 and procedures shall be adhered to by personnel of the  
16 Department involved in such investigations and reporting. The  
17 Department shall also make information required by this Act  
18 available to authorized personnel within the Department, as  
19 well as its authorized representatives.

20 The Department shall keep a continuing record of all  
21 reports made pursuant to this Act, including indications of  
22 the final determination of any investigation and the final  
23 disposition of all reports.

24 The Department shall report annually to the General  
25 Assembly on the incidence of abuse and neglect of long term  
26 care facility residents, with special attention to residents

1 who are persons with mental disabilities. The report shall  
2 include but not be limited to data on the number and source of  
3 reports of suspected abuse or neglect filed under this Act,  
4 the nature of any injuries to residents, the final  
5 determination of investigations, the type and number of cases  
6 where abuse or neglect is determined to exist, and the final  
7 disposition of cases.

8 (Source: P.A. 102-538, eff. 8-20-21.)

9 Section 60. The Community Living Facilities Licensing Act  
10 is amended by changing Section 5 as follows:

11 (210 ILCS 35/5) (from Ch. 111 1/2, par. 4185)

12 Sec. 5. Licensing standards. The Department shall  
13 promulgate rules and regulations establishing minimum  
14 standards for licensing of Community Living Facilities. These  
15 rules shall regulate:

16 (1) The location of Community Living Facilities. These  
17 provisions shall insure that the Community Living Facilities  
18 are in appropriate neighborhoods and shall prohibit  
19 concentration of these housing programs in communities.

20 (2) The operation and conduct of Community Living  
21 Facilities.

22 (3) The general financial ability, competence, character  
23 and qualifications of the applicant to provide appropriate  
24 care and comply with this Act.

1           (4) The appropriateness, safety, cleanliness and general  
2 adequacy of the premises, including maintenance of adequate  
3 fire protection and health standards, conforming to State laws  
4 and municipal codes, to provide for the physical comfort,  
5 well-being, care and protection of the residents.

6           (5) The number, character, training and qualifications of  
7 personnel directly responsible for the residents.

8           (6) Provisions for food, clothing, educational  
9 opportunities, social activities, home furnishings and  
10 personal property to insure the healthy physical, emotional  
11 and mental development of residents.

12           (7) Implementation of habilitation plans for each  
13 resident.

14           (8) Provisions for residents to receive appropriate  
15 programming and support services commensurate with their  
16 individual needs, and to participate in decisions regarding  
17 their use of programs and support services.

18           Such services should include educational opportunities,  
19 vocational training and other day activities aimed at  
20 promoting independence and improving basic living skills.

21           (9) Provisions and criteria for admission, discharge and  
22 transfers at Community Living Facilities.

23           (10) Provisions specifying the role and responsibilities  
24 of residents for upkeep of their rooms and the overall  
25 maintenance and care of the Community Living Facilities. These  
26 provisions shall allow the residents to participate in normal,

1 daily activities associated with community living.

2 (11) Provisions to insure that residents are notified of  
3 their legal rights, as defined in the rules promulgated  
4 pursuant to subsection (12) of this Section and to assist them  
5 in exercising these rights. Upon admission to a Community  
6 Living Facility, residents shall be provided a copy of their  
7 rights and related rules, regulations and policies, and the  
8 name, address, and telephone number of the Department of  
9 Disability Advocacy and Guardianship ~~and Advocacy Commission~~.

10 (12) Resident rights, which shall include, but need not be  
11 limited to, those guaranteed by the "Mental Health and  
12 Developmental Disabilities Code", as amended.

13 (13) Maintenance of records pertaining to the admission,  
14 habilitation, and discharge of residents, and to the general  
15 operation of Community Living Facilities.

16 (Source: P.A. 82-567.)

17 Section 65. The Nursing Home Care Act is amended by  
18 changing Sections 2-106 and 2-201 as follows:

19 (210 ILCS 45/2-106) (from Ch. 111 1/2, par. 4152-106)

20 Sec. 2-106. Restraints.

21 (a) For purposes of this Act, a physical restraint is any  
22 manual method or physical or mechanical device, material, or  
23 equipment attached or adjacent to a resident's body that the  
24 resident cannot remove easily and restricts freedom of

1 movement or normal access to one's body, and a chemical  
2 restraint is any drug used for discipline or convenience and  
3 not required to treat medical symptoms.

4 Devices used for positioning, including, but not limited  
5 to, bed rails and gait belts, shall not be considered to be  
6 physical restraints for purposes of this Act unless the device  
7 is used to restrain or otherwise limit the patient's freedom  
8 to move. A device used for positioning must be requested by the  
9 resident or, if the resident is unable to consent, the  
10 resident's guardian or authorized representative, or the need  
11 for that device must be physically demonstrated by the  
12 resident and documented in the resident's care plan. The  
13 physically demonstrated need of the resident for a device used  
14 for positioning must be revisited in every comprehensive  
15 assessment of the resident.

16 The Department shall by rule, designate certain devices as  
17 restraints, including at least all those devices which have  
18 been determined to be restraints by the United States  
19 Department of Health and Human Services in interpretive  
20 guidelines issued for the purposes of administering Titles  
21 XVIII and XIX of the Social Security Act.

22 (b) Neither restraints nor confinements shall be employed  
23 for the purpose of punishment or for the convenience of any  
24 facility personnel. No restraints or confinements shall be  
25 employed except as ordered by a physician who documents the  
26 need for such restraints or confinements in the resident's

1 clinical record.

2 (c) A restraint may be used only with the informed consent  
3 of the resident, the resident's guardian, or other authorized  
4 representative. A restraint may be used only for specific  
5 periods, if it is the least restrictive means necessary to  
6 attain and maintain the resident's highest practicable  
7 physical, mental or psychosocial well-being, including brief  
8 periods of time to provide necessary life-saving treatment. A  
9 restraint may be used only after consultation with appropriate  
10 health professionals, such as occupational or physical  
11 therapists, and a trial of less restrictive measures has led  
12 to the determination that the use of less restrictive measures  
13 would not attain or maintain the resident's highest  
14 practicable physical, mental or psychosocial well-being.  
15 However, if the resident needs emergency care, restraints may  
16 be used for brief periods to permit medical treatment to  
17 proceed unless the facility has notice that the resident has  
18 previously made a valid refusal of the treatment in question.

19 (d) A restraint may be applied only by a person trained in  
20 the application of the particular type of restraint.

21 (e) Whenever a period of use of a restraint is initiated,  
22 the resident shall be advised of his or her right to have a  
23 person or organization of his or her choosing, including the  
24 Department of Disability Advocacy and Guardianship ~~and~~  
25 ~~Advocacy Commission~~, notified of the use of the restraint. A  
26 recipient who is under guardianship may request that a person

1 or organization of his or her choosing be notified of the  
2 restraint, whether or not the guardian approves the notice. If  
3 the resident so chooses, the facility shall make the  
4 notification within 24 hours, including any information about  
5 the period of time that the restraint is to be used. Whenever  
6 the Department of Disability Advocacy and Guardianship ~~and~~  
7 ~~Advocacy Commission~~ is notified that a resident has been  
8 restrained, it shall contact the resident to determine the  
9 circumstances of the restraint and whether further action is  
10 warranted.

11 (f) Whenever a restraint is used on a resident whose  
12 primary mode of communication is sign language, the resident  
13 shall be permitted to have his or her hands free from restraint  
14 for brief periods each hour, except when this freedom may  
15 result in physical harm to the resident or others.

16 (g) The requirements of this Section are intended to  
17 control in any conflict with the requirements of Sections  
18 1-126 and 2-108 of the Mental Health and Developmental  
19 Disabilities Code.

20 (Source: P.A. 103-489, eff. 1-1-24.)

21 (210 ILCS 45/2-201) (from Ch. 111 1/2, par. 4152-201)

22 Sec. 2-201. To protect the residents' funds, the facility:

23 (1) Shall at the time of admission provide, in order of  
24 priority, each resident, or the resident's guardian, if any,  
25 or the resident's representative, if any, or the resident's

1 immediate family member, if any, with a written statement  
2 explaining to the resident and to the resident's spouse (a)  
3 their spousal impoverishment rights, as defined at Section 5-4  
4 of the Illinois Public Aid Code, and at Section 303 of Title  
5 III of the Medicare Catastrophic Coverage Act of 1988 (P.L.  
6 100-360), (b) their obligation to comply with the asset and  
7 income disclosure requirements of Title XIX of the federal  
8 Social Security Act and the regulations duly promulgated  
9 thereunder, except that this item (b) does not apply to  
10 facilities operated by the Illinois Department of Veterans  
11 Affairs that do not participate in Medicaid, and (c) the  
12 resident's rights regarding personal funds and listing the  
13 services for which the resident will be charged. The facility  
14 shall obtain a signed acknowledgment from each resident or the  
15 resident's guardian, if any, or the resident's representative,  
16 if any, or the resident's immediate family member, if any,  
17 that such person has received the statement and understands  
18 that failure to comply with asset and income disclosure  
19 requirements may result in the denial of Medicaid eligibility.

20 (2) May accept funds from a resident for safekeeping and  
21 managing, if it receives written authorization from, in order  
22 of priority, the resident or the resident's guardian, if any,  
23 or the resident's representative, if any, or the resident's  
24 immediate family member, if any; such authorization shall be  
25 attested to by a witness who has no pecuniary interest in the  
26 facility or its operations, and who is not connected in any way

1 to facility personnel or the administrator in any manner  
2 whatsoever.

3 (3) Shall maintain and allow, in order of priority, each  
4 resident or the resident's guardian, if any, or the resident's  
5 representative, if any, or the resident's immediate family  
6 member, if any, access to a written record of all financial  
7 arrangements and transactions involving the individual  
8 resident's funds.

9 (4) Shall provide, in order of priority, each resident, or  
10 the resident's guardian, if any, or the resident's  
11 representative, if any, or the resident's immediate family  
12 member, if any, with a written itemized statement at least  
13 quarterly, of all financial transactions involving the  
14 resident's funds.

15 (5) Shall purchase a surety bond, or otherwise provide  
16 assurance satisfactory to the Departments of Public Health and  
17 Insurance that all residents' personal funds deposited with  
18 the facility are secure against loss, theft, and insolvency.

19 (6) Shall keep any funds received from a resident for  
20 safekeeping in an account separate from the facility's funds,  
21 and shall at no time withdraw any part or all of such funds for  
22 any purpose other than to return the funds to the resident upon  
23 the request of the resident or any other person entitled to  
24 make such request, to pay the resident his allowance, or to  
25 make any other payment authorized by the resident or any other  
26 person entitled to make such authorization.

1           (7) Shall deposit any funds received from a resident in  
2 excess of \$100 in an interest bearing account insured by  
3 agencies of, or corporations chartered by, the State or  
4 federal government. The account shall be in a form which  
5 clearly indicates that the facility has only a fiduciary  
6 interest in the funds and any interest from the account shall  
7 accrue to the resident. The facility may keep up to \$100 of a  
8 resident's money in a non-interest bearing account or petty  
9 cash fund, to be readily available for the resident's current  
10 expenditures.

11           (8) Shall return to the resident, or the person who  
12 executed the written authorization required in subsection (2)  
13 of this Section, upon written request, all or any part of the  
14 resident's funds given the facility for safekeeping, including  
15 the interest accrued from deposits.

16           (9) Shall (a) place any monthly allowance to which a  
17 resident is entitled in that resident's personal account, or  
18 give it to the resident, unless the facility has written  
19 authorization from the resident or the resident's guardian or  
20 if the resident is a minor, his parent, to handle it  
21 differently, (b) take all steps necessary to ensure that a  
22 personal needs allowance that is placed in a resident's  
23 personal account is used exclusively by the resident or for  
24 the benefit of the resident, and (c) where such funds are  
25 withdrawn from the resident's personal account by any person  
26 other than the resident, require such person to whom funds

1 constituting any part of a resident's personal needs allowance  
2 are released, to execute an affidavit that such funds shall be  
3 used exclusively for the benefit of the resident.

4 (10) Unless otherwise provided by State law, upon the  
5 death of a resident, shall provide the executor or  
6 administrator of the resident's estate with a complete  
7 accounting of all the resident's personal property, including  
8 any funds of the resident being held by the facility.

9 (11) If an adult resident is incapable of managing his  
10 funds and does not have a resident's representative, guardian,  
11 or an immediate family member, shall notify the Division  
12 ~~Office~~ of ~~the~~ State Guardian of the Department of Disability  
13 Advocacy and Guardianship ~~and Advocacy Commission~~.

14 (12) If the facility is sold, shall provide the buyer with  
15 a written verification by a public accountant of all  
16 residents' monies and properties being transferred, and obtain  
17 a signed receipt from the new owner.

18 (Source: P.A. 104-234, eff. 8-15-25.)

19 Section 67. The Community-Integrated Living Arrangements  
20 Licensure and Certification Act is amended by changing Section  
21 9.1 as follows:

22 (210 ILCS 135/9.1)

23 Sec. 9.1. Recipient's funds; protection.

24 (a) To protect a recipient's funds, a service provider:

1           (1) May accept funds from a recipient for safekeeping  
2           and management if the service provider receives written  
3           authorization from the recipient or the recipient's  
4           guardian.

5           (2) Shall maintain a written record of all financial  
6           arrangements and transactions involving each individual  
7           recipient's funds and shall allow each recipient, or the  
8           recipient's guardian, access to that written record.

9           (3) Shall provide, in order of priority, each  
10          recipient, or the recipient's guardian, if any, or the  
11          recipient's immediate family member, if any, with a  
12          written itemized statement of all financial transactions  
13          involving the recipient's funds or a copy of the  
14          recipient's checking or savings account register for the  
15          period. This information shall be provided at least  
16          quarterly.

17          (4) Shall purchase and maintain a surety bond or other  
18          commercial policy with crime coverage in an amount equal  
19          to or greater than all of the recipient's personal funds  
20          deposited with the service provider to which employees of  
21          the service provider have access to secure against loss,  
22          theft, and insolvency. The insurance company that provides  
23          the surety bond or commercial policy with crime coverage  
24          shall inform the Division of Developmental Disabilities of  
25          the Department of Human Services of any reduction or  
26          cancellation of the surety bond or commercial policy with

1 crime coverage.

2 (5) Shall keep any funds received from a recipient in  
3 an account separate from the service provider's funds for  
4 safekeeping, and shall not withdraw all or any part of the  
5 recipient's funds unless the service provider is (i)  
6 returning the funds to the recipient upon the request of  
7 the recipient or any other person entitled to make the  
8 request, (ii) paying the recipient his or her allowance,  
9 or (iii) making any other payment authorized by the  
10 recipient or any other person entitled to make that  
11 authorization.

12 (6) Shall deposit any funds received from a recipient  
13 in excess of \$100 in an interest-bearing account insured  
14 by agencies of, or corporations chartered by, the State or  
15 the federal government. The account shall be in a form  
16 that clearly indicates that the service provider has only  
17 a fiduciary interest in the funds and that any interest  
18 earned on funds in the account shall accrue to the  
19 recipient. The service provider may keep up to \$100 of a  
20 recipient's funds in a non-interest-bearing account or  
21 petty cash fund, to be readily available for the  
22 recipient's current expenditures.

23 (7) Shall, upon written request of a recipient or the  
24 recipient's guardian, return to the recipient or the  
25 recipient's guardian of the estate all or any part of the  
26 recipient's funds given to the service provider for

1 safekeeping, including the accrued interest earned on the  
2 deposits of the recipient's funds.

3 (8) Shall (i) place any monthly allowance that a  
4 recipient is entitled to in the recipient's personal  
5 account or give the monthly allowance directly to the  
6 recipient, unless the service provider has written  
7 authorization from the recipient, the recipient's  
8 guardian, or the recipient's parent if the recipient is a  
9 minor, to handle the monthly allowance differently, (ii)  
10 take all steps necessary to ensure that a monthly  
11 allowance that is placed in a recipient's personal account  
12 is used exclusively by the recipient or for the  
13 recipient's benefit, and (iii) require any person other  
14 than the recipient who withdraws funds from the  
15 recipient's personal account that constitute any portion  
16 of the recipient's monthly allowance to execute an  
17 affidavit that the funds will be used exclusively for the  
18 benefit of the recipient.

19 (9) If an adult recipient is incapable of managing his  
20 or her funds and does not have a guardian or immediate  
21 family member, the service provider shall notify the  
22 Division Office of ~~the~~ State Guardian ~~of the~~ Guardianship  
23 ~~and Advocacy Commission~~.

24 (b) Upon the death of a recipient, unless otherwise  
25 provided by State law, the service provider shall provide the  
26 executor or administrator of the recipient's estate with a

1 complete accounting of all the recipient's personal property,  
2 including any funds of the recipient being held by the service  
3 provider.

4 (c) If a recipient changes service providers, the former  
5 service provider shall provide the new service provider with a  
6 written verification by a public accountant of all the  
7 recipient's money and property being transferred and shall  
8 obtain a signed receipt for the money and property from the new  
9 service provider upon transfer of the recipient's money and  
10 property.

11 (d) If a service provider is sold, the service provider  
12 shall provide the new owner with a written verification by a  
13 public accountant of all the recipient's money and property  
14 being transferred and shall obtain a signed receipt for the  
15 money and property from the new owner upon transfer of the  
16 recipient's money and property.

17 (Source: P.A. 98-1073, eff. 8-26-14.)

18 Section 70. The MC/DD Act is amended by changing Sections  
19 2-106 and 2-201 as follows:

20 (210 ILCS 46/2-106)

21 Sec. 2-106. Restraints and confinements.

22 (a) For purposes of this Act:

23 (i) A physical restraint is any manual method or  
24 physical or mechanical device, material, or equipment

1 attached or adjacent to a resident's body that the  
2 resident cannot remove easily and restricts freedom of  
3 movement or normal access to one's body. Devices used for  
4 positioning, including but not limited to bed rails, gait  
5 belts, and cushions, shall not be considered to be  
6 restraints for purposes of this Section.

7 (ii) A chemical restraint is any drug used for  
8 discipline or convenience and not required to treat  
9 medical symptoms. The Department shall by rule, designate  
10 certain devices as restraints, including at least all  
11 those devices which have been determined to be restraints  
12 by the United States Department of Health and Human  
13 Services in interpretive guidelines issued for the  
14 purposes of administering Titles XVIII and XIX of the  
15 Social Security Act.

16 (b) Neither restraints nor confinements shall be employed  
17 for the purpose of punishment or for the convenience of any  
18 facility personnel. No restraints or confinements shall be  
19 employed except as ordered by a physician who documents the  
20 need for such restraints or confinements in the resident's  
21 clinical record. Each facility licensed under this Act must  
22 have a written policy to address the use of restraints and  
23 seclusion. The Department shall establish by rule the  
24 provisions that the policy must include, which, to the extent  
25 practicable, should be consistent with the requirements for  
26 participation in the federal Medicare program. Each policy

1 shall include periodic review of the use of restraints.

2 (c) A restraint may be used only with the informed consent  
3 of the resident, the resident's guardian, or other authorized  
4 representative. A restraint may be used only for specific  
5 periods, if it is the least restrictive means necessary to  
6 attain and maintain the resident's highest practicable  
7 physical, mental or psychosocial well-being ~~well-being~~,  
8 including brief periods of time to provide necessary  
9 lifesaving ~~life-saving~~ treatment. A restraint may be used only  
10 after consultation with appropriate health professionals, such  
11 as occupational or physical therapists, and a trial of less  
12 restrictive measures has led to the determination that the use  
13 of less restrictive measures would not attain or maintain the  
14 resident's highest practicable physical, mental or  
15 psychosocial well-being ~~well-being~~. However, if the resident  
16 needs emergency care, restraints may be used for brief periods  
17 to permit medical treatment to proceed unless the facility has  
18 notice that the resident has previously made a valid refusal  
19 of the treatment in question.

20 (d) A restraint may be applied only by a person trained in  
21 the application of the particular type of restraint.

22 (e) Whenever a period of use of a restraint is initiated,  
23 the resident shall be advised of his or her right to have a  
24 person or organization of his or her choosing, including the  
25 Department of Disability Advocacy and Guardianship ~~and~~  
26 ~~Advocacy Commission~~, notified of the use of the restraint. A

1 recipient who is under guardianship may request that a person  
2 or organization of his or her choosing be notified of the  
3 restraint, whether or not the guardian approves the notice. If  
4 the resident so chooses, the facility shall make the  
5 notification within 24 hours, including any information about  
6 the period of time that the restraint is to be used. Whenever  
7 the Department of Disability Advocacy and Guardianship ~~and~~  
8 ~~Advocacy Commission~~ is notified that a resident has been  
9 restrained, it shall contact the resident to determine the  
10 circumstances of the restraint and whether further action is  
11 warranted.

12 (f) Whenever a restraint is used on a resident whose  
13 primary mode of communication is sign language, the resident  
14 shall be permitted to have his or her hands free from restraint  
15 for brief periods each hour, except when this freedom may  
16 result in physical harm to the resident or others.

17 (g) The requirements of this Section are intended to  
18 control in any conflict with the requirements of Sections  
19 1-126 and 2-108 of the Mental Health and Developmental  
20 Disabilities Code.

21 (Source: P.A. 99-180, eff. 7-29-15.)

22 (210 ILCS 46/2-201)

23 Sec. 2-201. Residents' funds. To protect the residents'  
24 funds, the facility:

25 (1) Shall at the time of admission provide, in order of

1 priority, each resident, or the resident's guardian, if any,  
2 or the resident's representative, if any, or the resident's  
3 immediate family member, if any, with a written statement  
4 explaining to the resident and to the resident's spouse (a)  
5 their spousal impoverishment rights, as defined at Section 5-4  
6 of the Illinois Public Aid Code, and at Section 303 of Title  
7 III of the Medicare Catastrophic Coverage Act of 1988 (P.L.  
8 100-360), and (b) the resident's rights regarding personal  
9 funds and listing the services for which the resident will be  
10 charged. The facility shall obtain a signed acknowledgment  
11 from each resident or the resident's guardian, if any, or the  
12 resident's representative, if any, or the resident's immediate  
13 family member, if any, that such person has received the  
14 statement.

15 (2) May accept funds from a resident for safekeeping and  
16 managing, if it receives written authorization from, in order  
17 of priority, the resident or the resident's guardian, if any,  
18 or the resident's representative, if any, or the resident's  
19 immediate family member, if any; such authorization shall be  
20 attested to by a witness who has no pecuniary interest in the  
21 facility or its operations, and who is not connected in any way  
22 to facility personnel or the administrator in any manner  
23 whatsoever.

24 (3) Shall maintain and allow, in order of priority, each  
25 resident or the resident's guardian, if any, or the resident's  
26 representative, if any, or the resident's immediate family

1 member, if any, access to a written record of all financial  
2 arrangements and transactions involving the individual  
3 resident's funds.

4 (4) Shall provide, in order of priority, each resident, or  
5 the resident's guardian, if any, or the resident's  
6 representative, if any, or the resident's immediate family  
7 member, if any, with a written itemized statement at least  
8 quarterly, of all financial transactions involving the  
9 resident's funds.

10 (5) Shall purchase a surety bond, or otherwise provide  
11 assurance satisfactory to the Departments of Public Health and  
12 Financial and Professional Regulation that all residents'  
13 personal funds deposited with the facility are secure against  
14 loss, theft, and insolvency.

15 (6) Shall keep any funds received from a resident for  
16 safekeeping in an account separate from the facility's funds,  
17 and shall at no time withdraw any part or all of such funds for  
18 any purpose other than to return the funds to the resident upon  
19 the request of the resident or any other person entitled to  
20 make such request, to pay the resident his or her allowance, or  
21 to make any other payment authorized by the resident or any  
22 other person entitled to make such authorization.

23 (7) Shall deposit any funds received from a resident in  
24 excess of \$100 in an interest-bearing ~~interest-bearing~~ account  
25 insured by agencies of, or corporations chartered by, the  
26 State or federal government. The account shall be in a form

1 which clearly indicates that the facility has only a fiduciary  
2 interest in the funds and any interest from the account shall  
3 accrue to the resident. The facility may keep up to \$100 of a  
4 resident's money in a non-interest-bearing account or petty  
5 cash fund, to be readily available for the resident's current  
6 expenditures.

7 (8) Shall return to the resident, or the person who  
8 executed the written authorization required in subsection (2)  
9 of this Section, upon written request, all or any part of the  
10 resident's funds given the facility for safekeeping, including  
11 the interest accrued from deposits.

12 (9) Shall (a) place any monthly allowance to which a  
13 resident is entitled in that resident's personal account, or  
14 give it to the resident, unless the facility has written  
15 authorization from the resident or the resident's guardian or  
16 if the resident is a minor, his parent, to handle it  
17 differently, (b) take all steps necessary to ensure that a  
18 personal needs allowance that is placed in a resident's  
19 personal account is used exclusively by the resident or for  
20 the benefit of the resident, and (c) where such funds are  
21 withdrawn from the resident's personal account by any person  
22 other than the resident, require such person to whom funds  
23 constituting any part of a resident's personal needs allowance  
24 are released, to execute an affidavit that such funds shall be  
25 used exclusively for the benefit of the resident.

26 (10) Unless otherwise provided by State law, upon the

1 death of a resident, shall provide the executor or  
2 administrator of the resident's estate with a complete  
3 accounting of all the resident's personal property, including  
4 any funds of the resident being held by the facility.

5 (11) If an adult resident is incapable of managing his or  
6 her funds and does not have a resident's representative,  
7 guardian, or an immediate family member, shall notify the  
8 Division Office of the State Guardian of the Department of  
9 Disability Advocacy and Guardianship and Advocacy Commission.

10 (12) If the facility is sold, shall provide the buyer with  
11 a written verification by a public accountant of all  
12 residents' monies and properties being transferred, and obtain  
13 a signed receipt from the new owner.

14 (Source: P.A. 99-180, eff. 7-29-15.)

15 Section 75. The ID/DD Community Care Act is amended by  
16 changing Sections 2-106 and 2-201 as follows:

17 (210 ILCS 47/2-106)

18 Sec. 2-106. Restraints and confinements.

19 (a) For purposes of this Act:

20 (i) A physical restraint is any manual method or  
21 physical or mechanical device, material, or equipment  
22 attached or adjacent to a resident's body that the  
23 resident cannot remove easily and restricts freedom of  
24 movement or normal access to one's body. Devices used for

1 positioning, including but not limited to bed rails, gait  
2 belts, and cushions, shall not be considered to be  
3 restraints for purposes of this Section.

4 (ii) A chemical restraint is any drug used for  
5 discipline or convenience and not required to treat  
6 medical symptoms. The Department shall by rule, designate  
7 certain devices as restraints, including at least all  
8 those devices which have been determined to be restraints  
9 by the United States Department of Health and Human  
10 Services in interpretive guidelines issued for the  
11 purposes of administering Titles XVIII and XIX of the  
12 Social Security Act.

13 (b) Neither restraints nor confinements shall be employed  
14 for the purpose of punishment or for the convenience of any  
15 facility personnel. No restraints or confinements shall be  
16 employed except as ordered by a physician who documents the  
17 need for such restraints or confinements in the resident's  
18 clinical record. Each facility licensed under this Act must  
19 have a written policy to address the use of restraints and  
20 seclusion. The Department shall establish by rule the  
21 provisions that the policy must include, which, to the extent  
22 practicable, should be consistent with the requirements for  
23 participation in the federal Medicare program. Each policy  
24 shall include periodic review of the use of restraints.

25 (c) A restraint may be used only with the informed consent  
26 of the resident, the resident's guardian, or other authorized

1 representative. A restraint may be used only for specific  
2 periods, if it is the least restrictive means necessary to  
3 attain and maintain the resident's highest practicable  
4 physical, mental or psychosocial well-being ~~well-being~~,  
5 including brief periods of time to provide necessary  
6 lifesaving ~~life-saving~~ treatment. A restraint may be used only  
7 after consultation with appropriate health professionals, such  
8 as occupational or physical therapists, and a trial of less  
9 restrictive measures has led to the determination that the use  
10 of less restrictive measures would not attain or maintain the  
11 resident's highest practicable physical, mental or  
12 psychosocial well-being ~~well-being~~. However, if the resident  
13 needs emergency care, restraints may be used for brief periods  
14 to permit medical treatment to proceed unless the facility has  
15 notice that the resident has previously made a valid refusal  
16 of the treatment in question.

17 (d) A restraint may be applied only by a person trained in  
18 the application of the particular type of restraint.

19 (e) Whenever a period of use of a restraint is initiated,  
20 the resident shall be advised of his or her right to have a  
21 person or organization of his or her choosing, including the  
22 Department of Disability Advocacy and Guardianship ~~and~~  
23 ~~Advocacy Commission~~, notified of the use of the restraint. A  
24 recipient who is under guardianship may request that a person  
25 or organization of his or her choosing be notified of the  
26 restraint, whether or not the guardian approves the notice. If

1 the resident so chooses, the facility shall make the  
2 notification within 24 hours, including any information about  
3 the period of time that the restraint is to be used. Whenever  
4 the Department of Disability Advocacy and Guardianship ~~and~~  
5 ~~Advocacy Commission~~ is notified that a resident has been  
6 restrained, it shall contact the resident to determine the  
7 circumstances of the restraint and whether further action is  
8 warranted.

9 (f) Whenever a restraint is used on a resident whose  
10 primary mode of communication is sign language, the resident  
11 shall be permitted to have his or her hands free from restraint  
12 for brief periods each hour, except when this freedom may  
13 result in physical harm to the resident or others.

14 (g) The requirements of this Section are intended to  
15 control in any conflict with the requirements of Sections  
16 1-126 and 2-108 of the Mental Health and Developmental  
17 Disabilities Code.

18 (Source: P.A. 96-339, eff. 7-1-10.)

19 (210 ILCS 47/2-201)

20 Sec. 2-201. Residents' funds. To protect the residents'  
21 funds, the facility:

22 (1) Shall at the time of admission provide, in order of  
23 priority, each resident, or the resident's guardian, if any,  
24 or the resident's representative, if any, or the resident's  
25 immediate family member, if any, with a written statement

1 explaining to the resident and to the resident's spouse (a)  
2 their spousal impoverishment rights, as defined at Section 5-4  
3 of the Illinois Public Aid Code, and at Section 303 of Title  
4 III of the Medicare Catastrophic Coverage Act of 1988 (P.L.  
5 100-360), and (b) the resident's rights regarding personal  
6 funds and listing the services for which the resident will be  
7 charged. The facility shall obtain a signed acknowledgment  
8 from each resident or the resident's guardian, if any, or the  
9 resident's representative, if any, or the resident's immediate  
10 family member, if any, that such person has received the  
11 statement.

12 (2) May accept funds from a resident for safekeeping and  
13 managing, if it receives written authorization from, in order  
14 of priority, the resident or the resident's guardian, if any,  
15 or the resident's representative, if any, or the resident's  
16 immediate family member, if any; such authorization shall be  
17 attested to by a witness who has no pecuniary interest in the  
18 facility or its operations, and who is not connected in any way  
19 to facility personnel or the administrator in any manner  
20 whatsoever.

21 (3) Shall maintain and allow, in order of priority, each  
22 resident or the resident's guardian, if any, or the resident's  
23 representative, if any, or the resident's immediate family  
24 member, if any, access to a written record of all financial  
25 arrangements and transactions involving the individual  
26 resident's funds.

1           (4) Shall provide, in order of priority, each resident, or  
2 the resident's guardian, if any, or the resident's  
3 representative, if any, or the resident's immediate family  
4 member, if any, with a written itemized statement at least  
5 quarterly, of all financial transactions involving the  
6 resident's funds.

7           (5) Shall purchase a surety bond, or otherwise provide  
8 assurance satisfactory to the Departments of Public Health and  
9 Financial and Professional Regulation that all residents'  
10 personal funds deposited with the facility are secure against  
11 loss, theft, and insolvency.

12           (6) Shall keep any funds received from a resident for  
13 safekeeping in an account separate from the facility's funds,  
14 and shall at no time withdraw any part or all of such funds for  
15 any purpose other than to return the funds to the resident upon  
16 the request of the resident or any other person entitled to  
17 make such request, to pay the resident his or her allowance, or  
18 to make any other payment authorized by the resident or any  
19 other person entitled to make such authorization.

20           (7) Shall deposit any funds received from a resident in  
21 excess of \$100 in an interest-bearing ~~interest-bearing~~ account  
22 insured by agencies of, or corporations chartered by, the  
23 State or federal government. The account shall be in a form  
24 which clearly indicates that the facility has only a fiduciary  
25 interest in the funds and any interest from the account shall  
26 accrue to the resident. The facility may keep up to \$100 of a

1 resident's money in a non-interest-bearing account or petty  
2 cash fund, to be readily available for the resident's current  
3 expenditures.

4 (8) Shall return to the resident, or the person who  
5 executed the written authorization required in subsection (2)  
6 of this Section, upon written request, all or any part of the  
7 resident's funds given the facility for safekeeping, including  
8 the interest accrued from deposits.

9 (9) Shall (a) place any monthly allowance to which a  
10 resident is entitled in that resident's personal account, or  
11 give it to the resident, unless the facility has written  
12 authorization from the resident or the resident's guardian or  
13 if the resident is a minor, his parent, to handle it  
14 differently, (b) take all steps necessary to ensure that a  
15 personal needs allowance that is placed in a resident's  
16 personal account is used exclusively by the resident or for  
17 the benefit of the resident, and (c) where such funds are  
18 withdrawn from the resident's personal account by any person  
19 other than the resident, require such person to whom funds  
20 constituting any part of a resident's personal needs allowance  
21 are released, to execute an affidavit that such funds shall be  
22 used exclusively for the benefit of the resident.

23 (10) Unless otherwise provided by State law, upon the  
24 death of a resident, shall provide the executor or  
25 administrator of the resident's estate with a complete  
26 accounting of all the resident's personal property, including

1 any funds of the resident being held by the facility.

2 (11) If an adult resident is incapable of managing his or  
3 her funds and does not have a resident's representative,  
4 guardian, or an immediate family member, shall notify the  
5 Division Office of the State Guardian of the Department of  
6 Disability Advocacy and Guardianship and Advocacy Commission.

7 (12) If the facility is sold, shall provide the buyer with  
8 a written verification by a public accountant of all  
9 residents' monies and properties being transferred, and obtain  
10 a signed receipt from the new owner.

11 (Source: P.A. 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

12 Section 80. The Hospital Licensing Act is amended by  
13 changing Section 9.6 as follows:

14 (210 ILCS 85/9.6)

15 Sec. 9.6. Patient protection from abuse.

16 (a) No administrator, agent, or employee of a hospital or  
17 a hospital affiliate, or a member of a hospital's medical  
18 staff, may abuse a patient in the hospital or in a facility  
19 operated by a hospital affiliate.

20 (b) Any hospital administrator, agent, employee, or  
21 medical staff member, or an administrator, employee, or  
22 physician employed by a hospital affiliate, who has reasonable  
23 cause to believe that any patient with whom he or she has  
24 direct contact has been subjected to abuse in the hospital or

1 hospital affiliate shall promptly report or cause a report to  
2 be made to a designated hospital administrator responsible for  
3 providing such reports to the Department as required by this  
4 Section.

5 (c) Retaliation against a person who lawfully and in good  
6 faith makes a report under this Section is prohibited.

7 (d) Upon receiving a report under subsection (b) of this  
8 Section, the hospital or hospital affiliate shall submit the  
9 report to the Department within 24 hours of obtaining such  
10 report. In the event that the hospital receives multiple  
11 reports involving a single alleged instance of abuse, the  
12 hospital shall submit one report to the Department.

13 (e) Upon receiving a report under this Section, the  
14 hospital or hospital affiliate shall promptly conduct an  
15 internal review to ensure the alleged victim's safety.  
16 Measures to protect the alleged victim shall be taken as  
17 deemed necessary by the hospital's administrator and may  
18 include, but are not limited to, removing suspected violators  
19 from further patient contact during the hospital's or hospital  
20 affiliate's internal review. If the alleged victim lacks  
21 decision-making capacity under the Health Care Surrogate Act  
22 and no health care surrogate is available, the hospital or  
23 hospital affiliate may contact the Department of Disability  
24 Advocacy and ~~Illinois~~ Guardianship and ~~Advocacy~~ Commission to  
25 determine the need for a temporary guardian of that person.

26 (f) All internal hospital and hospital affiliate reviews

1 shall be conducted by a designated employee or agent who is  
2 qualified to detect abuse and is not involved in the alleged  
3 victim's treatment. All internal review findings must be  
4 documented and filed according to hospital or hospital  
5 affiliate procedures and shall be made available to the  
6 Department upon request.

7 (g) Any other person may make a report of patient abuse to  
8 the Department if that person has reasonable cause to believe  
9 that a patient has been abused in the hospital or hospital  
10 affiliate.

11 (h) The report required under this Section shall include:  
12 the name of the patient; the name and address of the hospital  
13 or hospital affiliate treating the patient; the age of the  
14 patient; the nature of the patient's condition, including any  
15 evidence of previous injuries or disabilities; and any other  
16 information that the reporter believes might be helpful in  
17 establishing the cause of the reported abuse and the identity  
18 of the person believed to have caused the abuse.

19 (i) Except for willful or wanton misconduct, any  
20 individual, person, institution, or agency participating in  
21 good faith in the making of a report under this Section, or in  
22 the investigation of such a report or in making a disclosure of  
23 information concerning reports of abuse under this Section,  
24 shall have immunity from any liability, whether civil,  
25 professional, or criminal, that otherwise might result by  
26 reason of such actions. For the purpose of any proceedings,

1 whether civil, professional, or criminal, the good faith of  
2 any persons required to report cases of suspected abuse under  
3 this Section or who disclose information concerning reports of  
4 abuse in compliance with this Section, shall be presumed.

5 (j) No administrator, agent, or employee of a hospital or  
6 hospital affiliate shall adopt or employ practices or  
7 procedures designed to discourage good faith reporting of  
8 patient abuse under this Section.

9 (k) Every hospital and hospital affiliate shall ensure  
10 that all new and existing employees are trained in the  
11 detection and reporting of abuse of patients and retrained at  
12 least every 2 years thereafter.

13 (l) The Department shall investigate each report of  
14 patient abuse made under this Section according to the  
15 procedures of the Department, except that a report of abuse  
16 which indicates that a patient's life or safety is in imminent  
17 danger shall be investigated within 24 hours of such report.  
18 Under no circumstances may a hospital's or hospital  
19 affiliate's internal review of an allegation of abuse replace  
20 an investigation of the allegation by the Department.

21 (m) The Department shall keep a continuing record of all  
22 reports made pursuant to this Section, including indications  
23 of the final determination of any investigation and the final  
24 disposition of all reports. The Department shall inform the  
25 investigated hospital or hospital affiliate and any other  
26 person making a report under subsection (g) of its final

1 determination or disposition in writing.

2 (n) The Department shall not disclose to the public any  
3 information regarding any reports and investigations under  
4 this Section unless and until the report of abuse is  
5 substantiated following a full and proper investigation.

6 (o) All patient identifiable information in any report or  
7 investigation under this Section shall be confidential and  
8 shall not be disclosed except as authorized by this Act or  
9 other applicable law.

10 (p) Nothing in this Section relieves a hospital or  
11 hospital affiliate administrator, employee, agent, or medical  
12 staff member from contacting appropriate law enforcement  
13 authorities as required by law.

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

18 (r) Nothing in this Section shall require a hospital or  
19 hospital affiliate, including its employees, agents, and  
20 medical staff members, to provide any services to a patient in  
21 contravention of his or her stated or implied objection  
22 thereto upon grounds that such services conflict with his or  
23 her religious beliefs or practices, nor shall such a patient  
24 be considered abused under this Section for the exercise of  
25 such beliefs or practices.

26 (s) The Department's implementation of this Section is

1 subject to appropriations to the Department for that purpose.

2 (t) As used in this Section, the following terms have the  
3 following meanings:

4 "Abuse" means any physical or mental injury or sexual  
5 abuse intentionally inflicted by a hospital or hospital  
6 affiliate employee, agent, or medical staff member on a  
7 patient of the hospital or hospital affiliate and does not  
8 include any hospital or hospital affiliate, medical, health  
9 care, or other personal care services done in good faith in the  
10 interest of the patient according to established medical and  
11 clinical standards of care.

12 "Hospital affiliate" has the meaning given to that term in  
13 Section 10.8.

14 "Mental injury" means intentionally caused emotional  
15 distress in a patient from words or gestures that would be  
16 considered by a reasonable person to be humiliating,  
17 harassing, or threatening and which causes observable and  
18 substantial impairment.

19 "Sexual abuse" means any intentional act of sexual contact  
20 or sexual penetration of a patient in the hospital.

21 "Substantiated", with respect to a report of abuse, means  
22 that a preponderance of the evidence indicates that abuse  
23 occurred.

24 (Source: P.A. 103-803, eff. 1-1-25.)

25 Section 85. The Illinois Public Aid Code is amended by

1 changing Section 3-1.2 as follows:

2 (305 ILCS 5/3-1.2) (from Ch. 23, par. 3-1.2)

3 Sec. 3-1.2. Need.

4 (a) Income available to the person, when added to  
5 contributions in money, substance, or services from other  
6 sources, including contributions from legally responsible  
7 relatives, must be insufficient to equal the grant amount  
8 established by Department regulation for such person. In  
9 determining earned income to be taken into account,  
10 consideration shall be given to any expenses reasonably  
11 attributable to the earning of such income. If federal law or  
12 regulations permit or require exemption of earned or other  
13 income and resources, the Illinois Department shall provide by  
14 rule and regulation that the amount of income to be  
15 disregarded be increased (1) to the maximum extent so required  
16 and (2) to the maximum extent permitted by federal law or  
17 regulation in effect as of the date this amendatory Act  
18 becomes law. The Illinois Department may also provide by rule  
19 and regulation that the amount of resources to be disregarded  
20 be increased to the maximum extent so permitted or required.

21 (b) Subject to federal approval, resources (for example,  
22 land, buildings, equipment, supplies, or tools), including  
23 farmland property and personal property used in the  
24 income-producing operations related to the farmland (for  
25 example, equipment and supplies, motor vehicles, or tools),

1 necessary for self-support, up to \$6,000 of the person's  
2 equity in the income-producing property, provided that the  
3 property produces a net annual income of at least 6% of the  
4 excluded equity value of the property, are exempt. Equity  
5 value in excess of \$6,000 shall not be excluded. If the  
6 activity produces income that is less than 6% of the exempt  
7 equity due to reasons beyond the person's control (for  
8 example, the person's illness or crop failure) and there is a  
9 reasonable expectation that the property will again produce  
10 income equal to or greater than 6% of the equity value (for  
11 example, a medical prognosis that the person is expected to  
12 respond to treatment or that drought-resistant corn will be  
13 planted), the equity value in the property up to \$6,000 is  
14 exempt. If the person owns more than one piece of property and  
15 each produces income, each piece of property shall be looked  
16 at to determine whether the 6% rule is met, and then the  
17 amounts of the person's equity in all of those properties  
18 shall be totaled to determine whether the total equity is  
19 \$6,000 or less. The total equity value of all properties that  
20 is exempt shall be limited to \$6,000.

21 (c) In determining the resources of an individual or any  
22 dependents, the Department shall exclude from consideration  
23 the value of funeral and burial spaces, funeral and burial  
24 insurance the proceeds of which can only be used to pay the  
25 funeral and burial expenses of the insured and funds  
26 specifically set aside for the funeral and burial arrangements

1 of the individual or his or her dependents, including prepaid  
2 funeral and burial plans, to the same extent that such items  
3 are excluded from consideration under the federal Supplemental  
4 Security Income program (SSI). At any time prior to or after  
5 submitting an application for medical assistance and before a  
6 final determination of eligibility has been made by the  
7 Department, an applicant may use available resources to  
8 purchase one of the prepaid funeral or burial contracts  
9 exempted under this Section.

10 Prepaid funeral or burial contracts are exempt to the  
11 following extent:

12 (1) Funds in a revocable prepaid funeral or burial  
13 contract are exempt up to \$1,500, except that any portion  
14 of a contract that clearly represents the purchase of  
15 burial space, as that term is defined for purposes of the  
16 Supplemental Security Income program, is exempt regardless  
17 of value.

18 (2) Funds in an irrevocable prepaid funeral or burial  
19 contract are exempt up to \$7,248, except that any portion  
20 of a contract that clearly represents the purchase of  
21 burial space, as that term is defined for purposes of the  
22 Supplemental Security Income program, is exempt regardless  
23 of value. This amount shall be adjusted annually for any  
24 increase in the Consumer Price Index. The amount exempted  
25 shall be limited to the price of the funeral goods and  
26 services to be provided upon death. The contract must

1 provide a complete description of the funeral goods and  
2 services to be provided and the price thereof. Any amount  
3 in the contract not so specified shall be treated as a  
4 transfer of assets for less than fair market value.

5 (3) A prepaid, guaranteed-price funeral or burial  
6 contract, funded by an irrevocable assignment of a  
7 person's life insurance policy to a trust or a funeral  
8 home, is exempt. The amount exempted shall be limited to  
9 the amount of the insurance benefit designated for the  
10 cost of the funeral goods and services to be provided upon  
11 the person's death. The contract must provide a complete  
12 description of the funeral goods and services to be  
13 provided and the price thereof. Any amount in the contract  
14 not so specified shall be treated as a transfer of assets  
15 for less than fair market value. The trust must include a  
16 statement that, upon the death of the person, the State  
17 will receive all amounts remaining in the trust, including  
18 any remaining payable proceeds under the insurance policy  
19 up to an amount equal to the total medical assistance paid  
20 on behalf of the person. The trust is responsible for  
21 ensuring that the provider of funeral services under the  
22 contract receives the proceeds of the policy when it  
23 provides the funeral goods and services specified under  
24 the contract. The irrevocable assignment of ownership of  
25 the insurance policy must be acknowledged by the insurance  
26 company.

1           (4) Existing life insurance policies are exempt if  
2 there has been an irrevocable assignment in compliance  
3 with Section 2b of the Illinois Funeral or Burial Funds  
4 Act. A person shall sign a contract with a funeral home,  
5 which is licensed under the Illinois Funeral or Burial  
6 Funds Act, that describes the cost of the funeral goods  
7 and services to be provided upon the person's death, up to  
8 \$7,248, except that any portion of a contract that clearly  
9 represents the purchase of burial space, as that term is  
10 defined for purposes of the Supplemental Security Income  
11 program, is exempt regardless of value. This amount shall  
12 be adjusted annually for any increase in the Consumer  
13 Price Index. The contract must provide a complete  
14 description of the goods and services and any cash  
15 advances to be provided and the price thereof. The person  
16 shall sign an irrevocable designation of beneficiary form  
17 declaring that any amounts payable from the policies not  
18 used for goods and services and any cash advances as set  
19 forth in the contract shall be received by the State, up to  
20 an amount equal to the total medical assistance paid on  
21 behalf of the person; any funds remaining after payment to  
22 the State shall be paid to a secondary beneficiary (if  
23 any) listed on the policy, or to the estate of the  
24 purchaser if no secondary beneficiary is named on the  
25 policy in the event the proceeds exceed the prearranged  
26 costs of merchandise and services and any cash advances

1 and the total medical assistance paid on behalf of the  
2 insured. More than one policy may be subject to this  
3 subsection if the total face value of the policies is  
4 necessary to pay the amount described in the contract with  
5 the funeral home; policies that are not necessary to pay  
6 the amount described in the contract are not exempt. The  
7 licensed funeral home to which the life insurance policy  
8 benefits have been irrevocably assigned shall retain  
9 copies for inspection by the Comptroller and shall report  
10 annually to the Comptroller the following: the name of the  
11 insured, the name of the insurance company and policy  
12 number, an itemized account of the amount of the contract  
13 for goods and services and any cash advances provided, and  
14 the current value of the policy of benefits designated  
15 with a record of all amounts paid back to the State or  
16 other beneficiary. The Department of Healthcare and Family  
17 Services shall adopt rules and forms to implement this  
18 Section.

19 (d) Notwithstanding any other provision of this Code to  
20 the contrary, an irrevocable trust containing the resources of  
21 a person who is determined to have a disability shall be  
22 considered exempt from consideration. A pooled trust must be  
23 established and managed by a non-profit association that pools  
24 funds but maintains a separate account for each beneficiary.  
25 The trust may be established by the person, a parent,  
26 grandparent, legal guardian, or court. It must be established

1 for the sole benefit of the person and language contained in  
2 the trust shall stipulate that any amount remaining in the  
3 trust (up to the amount expended by the Department on medical  
4 assistance) that is not retained by the trust for reasonable  
5 administrative costs related to wrapping up the affairs of the  
6 subaccount shall be paid to the Department upon the death of  
7 the person. After a person reaches age 65, any funding by or on  
8 behalf of the person to the trust shall be treated as a  
9 transfer of assets for less than fair market value unless the  
10 person is a ward of a county public guardian or the Division of  
11 State Guardian pursuant to Section 13-5 of the Probate Act of  
12 1975 or Section 30 of the Guardianship and Advocacy Act and  
13 lives in the community, or the person is a ward of a county  
14 public guardian or the Division of State Guardian pursuant to  
15 Section 13-5 of the Probate Act of 1975 or Section 30 of the  
16 Guardianship and Advocacy Act and a court has found that any  
17 expenditures from the trust will maintain or enhance the  
18 person's quality of life. If the trust contains proceeds from  
19 a personal injury settlement, any Department charge must be  
20 satisfied in order for the transfer to the trust to be treated  
21 as a transfer for fair market value.

22 (e) The homestead shall be exempt from consideration  
23 except to the extent that it meets the income and shelter needs  
24 of the person. "Homestead" means the dwelling house and  
25 contiguous real estate owned and occupied by the person,  
26 regardless of its value. Subject to federal approval, a person

1 shall not be eligible for long-term care services, however, if  
2 the person's equity interest in his or her homestead exceeds  
3 the minimum home equity as allowed and increased annually  
4 under federal law. Subject to federal approval, on and after  
5 the effective date of this amendatory Act of the 97th General  
6 Assembly, homestead property transferred to a trust shall no  
7 longer be considered homestead property.

8 (f) Occasional or irregular gifts in cash, goods or  
9 services from persons who are not legally responsible  
10 relatives which are of nominal value or which do not have  
11 significant effect in meeting essential requirements shall be  
12 disregarded.

13 (g) The eligibility of any applicant for or recipient of  
14 public aid under this Article is not affected by the payment of  
15 any grant under the "Senior Citizens and Disabled Persons  
16 Property Tax Relief Act" or any distributions or items of  
17 income described under subparagraph (X) of paragraph (2) of  
18 subsection (a) of Section 203 of the Illinois Income Tax Act.

19 (h) The Illinois Department may, after appropriate  
20 investigation, establish and implement a consolidated standard  
21 to determine need and eligibility for and amount of benefits  
22 under this Article or a uniform cash supplement to the federal  
23 Supplemental Security Income program for all or any part of  
24 the then current recipients under this Article; provided,  
25 however, that the establishment or implementation of such a  
26 standard or supplement shall not result in reductions in

1 benefits under this Article for the then current recipients of  
2 such benefits.

3 (i) The provisions under paragraph (4) of subsection (c)  
4 are subject to federal approval. The Department of Healthcare  
5 and Family Services shall apply for any necessary federal  
6 waivers or approvals to implement by January 1, 2023 the  
7 changes made to this Section by this amendatory Act of the  
8 102nd General Assembly.

9 (Source: P.A. 102-959, eff. 5-27-22.)

10 Section 90. The Adult Protective Services Act is amended  
11 by changing Sections 2 and 3.5 as follows:

12 (320 ILCS 20/2) (from Ch. 23, par. 6602)

13 Sec. 2. Definitions. As used in this Act, unless the  
14 context requires otherwise:

15 (a) "Abandonment" means the desertion or willful forsaking  
16 of an eligible adult by an individual responsible for the care  
17 and custody of that eligible adult under circumstances in  
18 which a reasonable person would continue to provide care and  
19 custody. Nothing in this Act shall be construed to mean that an  
20 eligible adult is a victim of abandonment because of health  
21 care services provided or not provided by licensed health care  
22 professionals.

23 (a-1) "Abuse" means causing any physical, mental or sexual  
24 injury to an eligible adult, including exploitation of such

1 adult's financial resources, and abandonment or subjecting an  
2 eligible adult to an environment which creates a likelihood of  
3 harm to the eligible adult's health, physical and emotional  
4 well-being, or welfare.

5 Nothing in this Act shall be construed to mean that an  
6 eligible adult is a victim of abuse, abandonment, neglect, or  
7 self-neglect for the sole reason that he or she is being  
8 furnished with or relies upon treatment by spiritual means  
9 through prayer alone, in accordance with the tenets and  
10 practices of a recognized church or religious denomination.

11 Nothing in this Act shall be construed to mean that an  
12 eligible adult is a victim of abuse because of health care  
13 services provided or not provided by licensed health care  
14 professionals.

15 Nothing in this Act shall be construed to mean that an  
16 eligible adult is a victim of abuse in cases of criminal  
17 activity by strangers, telemarketing scams, consumer fraud,  
18 internet fraud, home repair disputes, complaints against a  
19 homeowners' association, or complaints between landlords and  
20 tenants.

21 (a-5) "Abuser" means a person who is a family member,  
22 caregiver, or another person who has a continuing relationship  
23 with the eligible adult and abuses, abandons, neglects, or  
24 financially exploits an eligible adult.

25 (a-6) "Adult with disabilities" means a person aged 18  
26 through 59 who resides in a domestic living situation and

1 whose disability as defined in subsection (c-5) impairs his or  
2 her ability to seek or obtain protection from abuse,  
3 abandonment, neglect, or exploitation.

4 (a-7) "Caregiver" means a person who either as a result of  
5 a family relationship, voluntarily, or in exchange for  
6 compensation has assumed responsibility for all or a portion  
7 of the care of an eligible adult who needs assistance with  
8 activities of daily living or instrumental activities of daily  
9 living.

10 (b) "Department" means the Department on Aging of the  
11 State of Illinois.

12 (c) "Director" means the Director of the Department.

13 (c-5) "Disability" means a physical or mental disability,  
14 including, but not limited to, a developmental disability, an  
15 intellectual disability, a mental illness as defined under the  
16 Mental Health and Developmental Disabilities Code, or dementia  
17 as defined under the Alzheimer's Disease Assistance Act.

18 (d) "Domestic living situation" means a residence where  
19 the eligible adult at the time of the report lives alone or  
20 with his or her family or a caregiver, or others, or other  
21 community-based unlicensed facility, but is not:

22 (1) A licensed facility as defined in Section 1-113 of  
23 the Nursing Home Care Act;

24 (1.5) A facility licensed under the ID/DD Community  
25 Care Act;

26 (1.6) A facility licensed under the MC/DD Act;

1 (1.7) A facility licensed under the Specialized Mental  
2 Health Rehabilitation Act of 2013;

3 (2) A "life care facility" as defined in the Life Care  
4 Facilities Act;

5 (3) A home, institution, or other place operated by  
6 the federal government or agency thereof or by the State  
7 of Illinois;

8 (4) A hospital, sanitarium, or other institution, the  
9 principal activity or business of which is the diagnosis,  
10 care, and treatment of human illness through the  
11 maintenance and operation of organized facilities  
12 therefor, which is required to be licensed under the  
13 Hospital Licensing Act;

14 (5) A "community living facility" as defined in the  
15 Community Living Facilities Licensing Act;

16 (6) (Blank);

17 (7) A "community-integrated living arrangement" as  
18 defined in the Community-Integrated Living Arrangements  
19 Licensure and Certification Act or a "community  
20 residential alternative" as licensed under that Act;

21 (8) An assisted living or shared housing establishment  
22 as defined in the Assisted Living and Shared Housing Act;  
23 or

24 (9) A supportive living facility as described in  
25 Section 5-5.01a of the Illinois Public Aid Code.

26 (e) "Eligible adult" means either an adult with

1 disabilities aged 18 through 59 or a person aged 60 or older  
2 who resides in a domestic living situation and is, or is  
3 alleged to be, abused, abandoned, neglected, or financially  
4 exploited by another individual or who neglects himself or  
5 herself. "Eligible adult" also includes an adult who resides  
6 in any of the facilities that are excluded from the definition  
7 of "domestic living situation" under paragraphs (1) through  
8 (9) of subsection (d), if either: (i) the alleged abuse,  
9 abandonment, or neglect occurs outside of the facility and not  
10 under facility supervision and the alleged abuser is a family  
11 member, caregiver, or another person who has a continuing  
12 relationship with the adult; or (ii) the alleged financial  
13 exploitation is perpetrated by a family member, caregiver, or  
14 another person who has a continuing relationship with the  
15 adult, but who is not an employee of the facility where the  
16 adult resides.

17 (f) "Emergency" means a situation in which an eligible  
18 adult is living in conditions presenting a risk of death or  
19 physical, mental or sexual injury and the provider agency has  
20 reason to believe the eligible adult is unable to consent to  
21 services which would alleviate that risk.

22 (f-1) "Financial exploitation" means the use of an  
23 eligible adult's resources by another to the disadvantage of  
24 that adult or the profit or advantage of a person other than  
25 that adult.

26 (f-3) "Investment advisor" means any person required to

1 register as an investment adviser or investment adviser  
2 representative under Section 8 of the Illinois Securities Law  
3 of 1953, which for purposes of this Act excludes any bank,  
4 trust company, savings bank, or credit union, or their  
5 respective employees.

6 (f-5) "Mandated reporter" means any of the following  
7 persons while engaged in carrying out their professional  
8 duties:

9 (1) a professional or professional's delegate while  
10 engaged in: (i) social services, (ii) law enforcement,  
11 (iii) education, (iv) the care of an eligible adult or  
12 eligible adults, or (v) any of the occupations required to  
13 be licensed under the Behavior Analyst Licensing Act, the  
14 Clinical Psychologist Licensing Act, the Clinical Social  
15 Work and Social Work Practice Act, the Illinois Dental  
16 Practice Act, the Dietitian Nutritionist Practice Act, the  
17 Marriage and Family Therapy Licensing Act, the Medical  
18 Practice Act of 1987, the Naprapathic Practice Act, the  
19 Nurse Practice Act, the Nursing Home Administrators  
20 Licensing and Disciplinary Act, the Illinois Occupational  
21 Therapy Practice Act, the Illinois Optometric Practice Act  
22 of 1987, the Pharmacy Practice Act, the Illinois Physical  
23 Therapy Act, the Physician Assistant Practice Act of 1987,  
24 the Podiatric Medical Practice Act of 1987, the  
25 Respiratory Care Practice Act, the Professional Counselor  
26 and Clinical Professional Counselor Licensing and Practice

1 Act, the Illinois Speech-Language Pathology and Audiology  
2 Practice Act, the Veterinary Medicine and Surgery Practice  
3 Act of 2004, and the Illinois Public Accounting Act;

4 (1.5) an employee of an entity providing developmental  
5 disabilities services or service coordination funded by  
6 the Department of Human Services;

7 (2) an employee of a vocational rehabilitation  
8 facility prescribed or supervised by the Department of  
9 Human Services;

10 (3) an administrator, employee, or person providing  
11 services in or through an unlicensed community based  
12 facility;

13 (4) any religious practitioner who provides treatment  
14 by prayer or spiritual means alone in accordance with the  
15 tenets and practices of a recognized church or religious  
16 denomination, except as to information received in any  
17 confession or sacred communication enjoined by the  
18 discipline of the religious denomination to be held  
19 confidential;

20 (5) field personnel of the Department of Healthcare  
21 and Family Services, Department of Public Health, and  
22 Department of Human Services, and any county or municipal  
23 health department;

24 (6) personnel of the Department of Human Services, the  
25 Department of Disability Advocacy and Guardianship ~~and~~  
26 ~~Advocacy Commission~~, the State Fire Marshal, local fire

1 departments, the Department on Aging and its subsidiary  
2 Area Agencies on Aging and provider agencies, except the  
3 State Long Term Care Ombudsman and any of his or her  
4 representatives or volunteers where prohibited from making  
5 such a report pursuant to 45 CFR 1324.11(e) (3) (iv);

6 (7) any employee of the State of Illinois not  
7 otherwise specified herein who is involved in providing  
8 services to eligible adults, including professionals  
9 providing medical or rehabilitation services and all other  
10 persons having direct contact with eligible adults;

11 (8) a person who performs the duties of a coroner or  
12 medical examiner;

13 (9) a person who performs the duties of a paramedic or  
14 an emergency medical technician; or

15 (10) a person who performs the duties of an investment  
16 advisor.

17 (g) "Neglect" means another individual's failure to  
18 provide an eligible adult with or willful withholding from an  
19 eligible adult the necessities of life including, but not  
20 limited to, food, clothing, shelter or health care. This  
21 subsection does not create any new affirmative duty to provide  
22 support to eligible adults. Nothing in this Act shall be  
23 construed to mean that an eligible adult is a victim of neglect  
24 because of health care services provided or not provided by  
25 licensed health care professionals.

26 (h) "Provider agency" means any public or nonprofit agency

1 in a planning and service area that is selected by the  
2 Department or appointed by the regional administrative agency  
3 with prior approval by the Department on Aging to receive and  
4 assess reports of alleged or suspected abuse, abandonment,  
5 neglect, or financial exploitation. A provider agency is also  
6 referenced as a "designated agency" in this Act.

7 (i) "Regional administrative agency" means any public or  
8 nonprofit agency in a planning and service area that provides  
9 regional oversight and performs functions as set forth in  
10 subsection (b) of Section 3 of this Act. The Department shall  
11 designate an Area Agency on Aging as the regional  
12 administrative agency or, in the event the Area Agency on  
13 Aging in that planning and service area is deemed by the  
14 Department to be unwilling or unable to provide those  
15 functions, the Department may serve as the regional  
16 administrative agency or designate another qualified entity to  
17 serve as the regional administrative agency; any such  
18 designation shall be subject to terms set forth by the  
19 Department.

20 (i-5) "Self-neglect" means a condition that is the result  
21 of an eligible adult's inability, due to physical or mental  
22 impairments, or both, or a diminished capacity, to perform  
23 essential self-care tasks that substantially threaten his or  
24 her own health, including: providing essential food, clothing,  
25 shelter, and health care; and obtaining goods and services  
26 necessary to maintain physical health, mental health,

1 emotional well-being, and general safety. The term includes  
2 compulsive hoarding, which is characterized by the acquisition  
3 and retention of large quantities of items and materials that  
4 produce an extensively cluttered living space, which  
5 significantly impairs the performance of essential self-care  
6 tasks or otherwise substantially threatens life or safety.

7 (j) "Substantiated case" means a reported case of alleged  
8 or suspected abuse, abandonment, neglect, financial  
9 exploitation, or self-neglect in which a provider agency,  
10 after assessment, determines that there is reason to believe  
11 abuse, abandonment, neglect, or financial exploitation has  
12 occurred.

13 (k) "Verified" means a determination that there is "clear  
14 and convincing evidence" that the specific injury or harm  
15 alleged was the result of abuse, abandonment, neglect, or  
16 financial exploitation.

17 (Source: P.A. 102-244, eff. 1-1-22; 102-953, eff. 5-27-22;  
18 103-329, eff. 1-1-24; 103-626, eff. 1-1-25.)

19 (320 ILCS 20/3.5)

20 Sec. 3.5. Other responsibilities. The Department shall  
21 also be responsible for the following activities, contingent  
22 upon adequate funding; implementation shall be expanded to  
23 adults with disabilities upon the effective date of this  
24 amendatory Act of the 98th General Assembly, except those  
25 responsibilities under subsection (a), which shall be

1 undertaken as soon as practicable:

2 (a) promotion of a wide range of endeavors for the  
3 purpose of preventing abuse, abandonment, neglect,  
4 financial exploitation, and self-neglect, including, but  
5 not limited to, promotion of public and professional  
6 education to increase awareness of abuse, abandonment,  
7 neglect, financial exploitation, and self-neglect; to  
8 increase reports; to establish access to and use of the  
9 Registry established under Section 7.5; and to improve  
10 response by various legal, financial, social, and health  
11 systems;

12 (b) coordination of efforts with other agencies,  
13 councils, and like entities, to include but not be limited  
14 to, the Administrative Office of the Illinois Courts, the  
15 Office of the Attorney General, the Illinois State Police,  
16 the Illinois Law Enforcement Training Standards Board, the  
17 State Triad, the Illinois Criminal Justice Information  
18 Authority, the Departments of Public Health, Healthcare  
19 and Family Services, and Human Services, the Department of  
20 Disability Advocacy and ~~Illinois~~ Guardianship and Advocacy  
21 Commission, the Family Violence Coordinating Council, the  
22 Illinois Violence Prevention Authority, and other entities  
23 which may impact awareness of, and response to, abuse,  
24 abandonment, neglect, financial exploitation, and  
25 self-neglect;

26 (c) collection and analysis of data;

1           (d) monitoring of the performance of regional  
2 administrative agencies and adult protective services  
3 agencies;

4           (e) promotion of prevention activities;

5           (f) establishing and coordinating an aggressive  
6 training program on the unique nature of adult abuse cases  
7 with other agencies, councils, and like entities, to  
8 include but not be limited to the Office of the Attorney  
9 General, the Illinois State Police, the Illinois Law  
10 Enforcement Training Standards Board, the State Triad, the  
11 Illinois Criminal Justice Information Authority, the State  
12 Departments of Public Health, Healthcare and Family  
13 Services, and Human Services, the Family Violence  
14 Coordinating Council, the Illinois Violence Prevention  
15 Authority, the agency designated by the Governor under  
16 Section 1 of the Protection and Advocacy for Persons with  
17 Developmental Disabilities Act, and other entities that  
18 may impact awareness of and response to abuse,  
19 abandonment, neglect, financial exploitation, and  
20 self-neglect;

21           (g) solicitation of financial institutions for the  
22 purpose of making information available to the general  
23 public warning of financial exploitation of adults and  
24 related financial fraud or abuse, including such  
25 information and warnings available through signage or  
26 other written materials provided by the Department on the

1 premises of such financial institutions, provided that the  
2 manner of displaying or distributing such information is  
3 subject to the sole discretion of each financial  
4 institution; and

5 (g-1) developing by joint rulemaking with the  
6 Department of Financial and Professional Regulation  
7 minimum training standards which shall be used by  
8 financial institutions for their current and new employees  
9 with direct customer contact; the Department of Financial  
10 and Professional Regulation shall retain sole visitation  
11 and enforcement authority under this subsection (g-1); the  
12 Department of Financial and Professional Regulation shall  
13 provide bi-annual reports to the Department setting forth  
14 aggregate statistics on the training programs required  
15 under this subsection (g-1).

16 (Source: P.A. 102-244, eff. 1-1-22; 102-538, eff. 8-20-21;  
17 102-813, eff. 5-13-22; 103-626, eff. 1-1-25.)

18 Section 95. The Mental Health and Developmental  
19 Disabilities Code is amended by changing Sections 2-103,  
20 2-108, 2-109, 2-114, 2-200, 2-201, 3-206, 3-405, 3-805, 3-910,  
21 4-201.1, 4-203, 4-605, and 5-100 as follows:

22 (405 ILCS 5/2-103) (from Ch. 91 1/2, par. 2-103)

23 Sec. 2-103. Except as provided in this Section, a  
24 recipient who resides in a mental health or developmental

1 disabilities facility shall be permitted unimpeded, private,  
2 and uncensored communication with persons of his choice by  
3 mail, telephone and visitation.

4 (a) The facility director shall ensure that correspondence  
5 can be conveniently received and mailed, that telephones are  
6 reasonably accessible, and that space for visits is available.  
7 Writing materials, postage and telephone usage funds shall be  
8 provided in reasonable amounts to recipients who reside in  
9 Department facilities and who are unable to procure such  
10 items.

11 (b) Reasonable times and places for the use of telephones  
12 and for visits may be established in writing by the facility  
13 director.

14 (c) Unimpeded, private and uncensored communication by  
15 mail, telephone, and visitation may be reasonably restricted  
16 by the facility director only in order to protect the  
17 recipient or others from harm, harassment or intimidation,  
18 provided that notice of such restriction shall be given to all  
19 recipients upon admission. When communications are restricted,  
20 the facility shall advise the recipient that he has the right  
21 to require the facility to notify the affected parties of the  
22 restriction, and to notify such affected party when the  
23 restrictions are no longer in effect. However, all letters  
24 addressed by a recipient to the Governor, members of the  
25 General Assembly, Attorney General, judges, state's attorneys,  
26 the Department of Disability Advocacy and Guardianship ~~and~~

1 ~~Advocacy Commission~~, or the Agency designated pursuant to "An  
2 Act in relation to the protection and advocacy of the rights of  
3 persons with developmental disabilities, and amending Acts  
4 therein named", approved September 20, 1985, officers of the  
5 Department, or licensed attorneys at law must be forwarded at  
6 once to the persons to whom they are addressed without  
7 examination by the facility authorities. Letters in reply from  
8 the officials and attorneys mentioned above must be delivered  
9 to the recipient without examination by the facility  
10 authorities.

11 (d) No facility shall prevent any attorney who represents  
12 a recipient or who has been requested to do so by any relative  
13 or family member of the recipient, from visiting a recipient  
14 during normal business hours, unless that recipient refuses to  
15 meet with the attorney.

16 (e) Whenever, as the result of the closing or the  
17 reduction in the number of units or available beds of any  
18 mental health facility operated by the Department of Human  
19 Services, the State determines to enter into a contract with  
20 any mental health facility to provide hospitalization to  
21 persons who would otherwise be served by the State-operated  
22 mental health facility, the resident shall be entitled to the  
23 same rights under this Section.

24 (Source: P.A. 97-1007, eff. 8-17-12.)

1           Sec. 2-108. Use of restraint. Restraint may be used only  
2 as a therapeutic measure to prevent a recipient from causing  
3 physical harm to himself or physical abuse to others.  
4 Restraint may only be applied by a person who has been trained  
5 in the application of the particular type of restraint to be  
6 utilized. In no event shall restraint be utilized to punish or  
7 discipline a recipient, nor is restraint to be used as a  
8 convenience for the staff.

9           (a) Except as provided in this Section, restraint shall be  
10 employed only upon the written order of a physician, clinical  
11 psychologist, clinical social worker, clinical professional  
12 counselor, advanced practice psychiatric nurse, or registered  
13 nurse with supervisory responsibilities. No restraint shall be  
14 ordered unless the physician, clinical psychologist, clinical  
15 social worker, clinical professional counselor, advanced  
16 practice psychiatric nurse, or registered nurse with  
17 supervisory responsibilities, after personally observing and  
18 examining the recipient, is clinically satisfied that the use  
19 of restraint is justified to prevent the recipient from  
20 causing physical harm to himself or others. In no event may  
21 restraint continue for longer than 2 hours unless within that  
22 time period a nurse with supervisory responsibilities,  
23 advanced practice psychiatric nurse, or a physician confirms,  
24 in writing, following a personal examination of the recipient,  
25 that the restraint does not pose an undue risk to the  
26 recipient's health in light of the recipient's physical or

1 medical condition. The order shall state the events leading up  
2 to the need for restraint and the purposes for which restraint  
3 is employed. The order shall also state the length of time  
4 restraint is to be employed and the clinical justification for  
5 that length of time. No order for restraint shall be valid for  
6 more than 16 hours. If further restraint is required, a new  
7 order must be issued pursuant to the requirements provided in  
8 this Section.

9 (b) In the event there is an emergency requiring the  
10 immediate use of restraint, it may be ordered temporarily by a  
11 qualified person only where a physician, clinical  
12 psychologist, clinical social worker, clinical professional  
13 counselor, advanced practice psychiatric nurse, or registered  
14 nurse with supervisory responsibilities is not immediately  
15 available. In that event, an order by a nurse, clinical  
16 psychologist, clinical social worker, clinical professional  
17 counselor, advanced practice psychiatric nurse, or physician  
18 shall be obtained pursuant to the requirements of this Section  
19 as quickly as possible, and the recipient shall be examined by  
20 a physician or supervisory nurse within 2 hours after the  
21 initial employment of the emergency restraint. Whoever orders  
22 restraint in emergency situations shall document its necessity  
23 and place that documentation in the recipient's record.

24 (c) The person who orders restraint shall inform the  
25 facility director or his designee in writing of the use of  
26 restraint within 24 hours.

1 (d) The facility director shall review all restraint  
2 orders daily and shall inquire into the reasons for the orders  
3 for restraint by any person who routinely orders them.

4 (e) Restraint may be employed during all or part of one  
5 24-hour ~~24-hour~~ period, the period commencing with the initial  
6 application of the restraint. However, once restraint has been  
7 employed during one 24-hour ~~24-hour~~ period, it shall not be  
8 used again on the same recipient during the next 48 hours  
9 without the prior written authorization of the facility  
10 director.

11 (f) Restraint shall be employed in a humane and  
12 therapeutic manner and the person being restrained shall be  
13 observed by a qualified person as often as is clinically  
14 appropriate but in no event less than once every 15 minutes.  
15 The qualified person shall maintain a record of the  
16 observations. Specifically, unless there is an immediate  
17 danger that the recipient will physically harm himself or  
18 others, restraint shall be loosely applied to permit freedom  
19 of movement. Further, the recipient shall be permitted to have  
20 regular meals and toilet privileges free from the restraint,  
21 except when freedom of action may result in physical harm to  
22 the recipient or others.

23 (g) Every facility that employs restraint shall provide  
24 training in the safe and humane application of each type of  
25 restraint employed. The facility shall not authorize the use  
26 of any type of restraint by an employee who has not received

1 training in the safe and humane application of that type of  
2 restraint. Each facility in which restraint is used shall  
3 maintain records detailing which employees have been trained  
4 and are authorized to apply restraint, the date of the  
5 training and the type of restraint that the employee was  
6 trained to use.

7 (h) Whenever restraint is imposed upon any recipient whose  
8 primary mode of communication is sign language, the recipient  
9 shall be permitted to have his hands free from restraint for  
10 brief periods each hour, except when freedom may result in  
11 physical harm to the recipient or others.

12 (i) A recipient who is restrained may only be secluded at  
13 the same time pursuant to an explicit written authorization as  
14 provided in Section 2-109 of this Code. Whenever a recipient  
15 is restrained, a member of the facility staff shall remain  
16 with the recipient at all times unless the recipient has been  
17 secluded. A recipient who is restrained and secluded shall be  
18 observed by a qualified person as often as is clinically  
19 appropriate but in no event less than every 15 minutes.

20 (j) Whenever restraint is used, the recipient shall be  
21 advised of his right, pursuant to Sections 2-200 and 2-201 of  
22 this Code, to have any person of his choosing, including the  
23 Department of Disability Advocacy and Guardianship ~~and~~  
24 ~~Advocacy Commission~~ or the agency designated pursuant to the  
25 Protection and Advocacy for Persons with Developmental  
26 Disabilities Act notified of the restraint. A recipient who is

1 under guardianship may request that any person of his choosing  
2 be notified of the restraint whether or not the guardian  
3 approves of the notice. Whenever the Department of Disability  
4 Advocacy and Guardianship ~~and Advocacy Commission~~ is notified  
5 that a recipient has been restrained, it shall contact that  
6 recipient to determine the circumstances of the restraint and  
7 whether further action is warranted.

8 (Source: P.A. 101-587, eff. 1-1-20.)

9 (405 ILCS 5/2-109) (from Ch. 91 1/2, par. 2-109)

10 Sec. 2-109. Seclusion. Seclusion may be used only as a  
11 therapeutic measure to prevent a recipient from causing  
12 physical harm to himself or physical abuse to others. In no  
13 event shall seclusion be utilized to punish or discipline a  
14 recipient, nor is seclusion to be used as a convenience for the  
15 staff.

16 (a) Seclusion shall be employed only upon the written  
17 order of a physician, clinical psychologist, clinical social  
18 worker, clinical professional counselor, advanced practice  
19 psychiatric nurse, or registered nurse with supervisory  
20 responsibilities. No seclusion shall be ordered unless the  
21 physician, clinical psychologist, clinical social worker,  
22 clinical professional counselor, advanced practice psychiatric  
23 nurse, or registered nurse with supervisory responsibilities,  
24 after personally observing and examining the recipient, is  
25 clinically satisfied that the use of seclusion is justified to

1 prevent the recipient from causing physical harm to himself or  
2 others. In no event may seclusion continue for longer than 2  
3 hours unless within that time period a nurse with supervisory  
4 responsibilities, advanced practice psychiatric nurse, or a  
5 physician confirms in writing, following a personal  
6 examination of the recipient, that the seclusion does not pose  
7 an undue risk to the recipient's health in light of the  
8 recipient's physical or medical condition. The order shall  
9 state the events leading up to the need for seclusion and the  
10 purposes for which seclusion is employed. The order shall also  
11 state the length of time seclusion is to be employed and the  
12 clinical justification for the length of time. No order for  
13 seclusion shall be valid for more than 16 hours. If further  
14 seclusion is required, a new order must be issued pursuant to  
15 the requirements provided in this Section.

16 (b) The person who orders seclusion shall inform the  
17 facility director or his designee in writing of the use of  
18 seclusion within 24 hours.

19 (c) The facility director shall review all seclusion  
20 orders daily and shall inquire into the reasons for the orders  
21 for seclusion by any person who routinely orders them.

22 (d) Seclusion may be employed during all or part of one  
23 16-hour ~~16-hour~~ period, that period commencing with the  
24 initial application of the seclusion. However, once seclusion  
25 has been employed during one 16-hour ~~16-hour~~ period, it shall  
26 not be used again on the same recipient during the next 48

1 hours without the prior written authorization of the facility  
2 director.

3 (e) The person who ordered the seclusion shall assign a  
4 qualified person to observe the recipient at all times. A  
5 recipient who is restrained and secluded shall be observed by  
6 a qualified person as often as is clinically appropriate but  
7 in no event less than once every 15 minutes.

8 (f) Safety precautions shall be followed to prevent  
9 injuries to the recipient in the seclusion room. Seclusion  
10 rooms shall be adequately lighted, heated, and furnished. If a  
11 door is locked, someone with a key shall be in constant  
12 attendance nearby.

13 (g) Whenever seclusion is used, the recipient shall be  
14 advised of his right, pursuant to Sections 2-200 and 2-201 of  
15 this Code, to have any person of his choosing, including the  
16 Department of Disability Advocacy and Guardianship ~~and~~  
17 ~~Advocacy Commission~~ notified of the seclusion. A person who is  
18 under guardianship may request that any person of his choosing  
19 be notified of the seclusion whether or not the guardian  
20 approves of the notice. Whenever the Department of Disability  
21 Advocacy and Guardianship ~~and Advocacy Commission~~ is notified  
22 that a recipient has been secluded, it shall contact that  
23 recipient to determine the circumstances of the seclusion and  
24 whether further action is warranted.

25 (Source: P.A. 101-587, eff. 1-1-20.)

1 (405 ILCS 5/2-114) (from Ch. 91 1/2, par. 2-114)

2 Sec. 2-114. (a) Whenever an attorney or other advocate  
3 from the Department of Disability Advocacy and Guardianship  
4 ~~and Advocacy Commission~~ or the agency designated by the  
5 Governor under Section 1 of the Protection and Advocacy for  
6 Persons with Developmental Disabilities Act or any other  
7 attorney advises a facility in which a recipient is receiving  
8 inpatient mental health services that he is presently  
9 representing the recipient, or has been appointed by any court  
10 or administrative agency to do so or has been requested to  
11 represent the recipient by a member of the recipient's family,  
12 the facility shall, subject to the provisions of Section 2-113  
13 of this Code, disclose to the attorney or advocate whether the  
14 recipient is presently residing in the facility and, if so,  
15 how the attorney or advocate may communicate with the  
16 recipient.

17 (b) The facility may take reasonable precautions to  
18 identify the attorney or advocate. No further information  
19 shall be disclosed to the attorney or advocate except in  
20 conformity with the authorization procedures contained in the  
21 Mental Health and Developmental Disabilities Confidentiality  
22 Act.

23 (c) Whenever the location of the recipient has been  
24 disclosed to an attorney or advocate, the facility director  
25 shall inform the recipient of that fact and shall note this  
26 disclosure in the recipient's records.

1 (d) An attorney or advocate who receives any information  
2 under this Section may not disclose this information to anyone  
3 else without the written consent of the recipient obtained  
4 pursuant to Section 5 of the Mental Health and Developmental  
5 Disabilities Confidentiality Act.

6 (Source: P.A. 99-143, eff. 7-27-15.)

7 (405 ILCS 5/2-200) (from Ch. 91 1/2, par. 2-200)

8 Sec. 2-200. (a) Upon commencement of services, or as soon  
9 thereafter as the condition of the recipient permits, every  
10 adult recipient, as well as the recipient's guardian or  
11 substitute decision maker, and every recipient who is 12 years  
12 of age or older and the parent or guardian of a minor or person  
13 under guardianship shall be informed orally and in writing of  
14 the rights guaranteed by this Chapter which are relevant to  
15 the nature of the recipient's services program. The notice  
16 shall include, if applicable, the recipient's right to request  
17 a transfer to a different Department facility under Section  
18 3-908. Every facility shall also post conspicuously in public  
19 areas a summary of the rights which are relevant to the  
20 services delivered by that facility as well as contact  
21 information for the Department of Disability Advocacy and  
22 Guardianship and Advocacy Commission and the agency designated  
23 by the Governor under Section 1 of the Protection and Advocacy  
24 for Persons with Developmental Disabilities Act.

25 (b) A recipient who is 12 years of age or older and the

1 parent or guardian of a minor or person under guardianship at  
2 any time may designate, and upon commencement of services  
3 shall be informed of the right to designate, a person or agency  
4 to receive notice under Section 2-201 or to direct that no  
5 information about the recipient be disclosed to any person or  
6 agency.

7 (c) Upon commencement of services, or as soon thereafter  
8 as the condition of the recipient permits, the facility shall  
9 ask the adult recipient or minor recipient admitted pursuant  
10 to Section 3-502 whether the recipient wants the facility to  
11 contact the recipient's spouse, parents, guardian, close  
12 relatives, friends, attorney, advocate from the Department of  
13 Disability Advocacy and Guardianship ~~and Advocacy Commission~~  
14 or the agency designated by the Governor under Section 1 of the  
15 Protection and Advocacy for Persons with Developmental  
16 Disabilities Act, or others and inform them of the recipient's  
17 presence at the facility. The facility shall by phone or by  
18 mail contact at least two of those people designated by the  
19 recipient and shall inform them of the recipient's location.  
20 If the recipient so requests, the facility shall also inform  
21 them of how to contact the recipient.

22 (d) Upon commencement of services, or as soon thereafter  
23 as the condition of the recipient permits, the facility shall  
24 advise the recipient as to the circumstances under which the  
25 law permits the use of emergency forced medication or  
26 electroconvulsive therapy under subsection (a) of Section

1 2-107, restraint under Section 2-108, or seclusion under  
2 Section 2-109. At the same time, the facility shall inquire of  
3 the recipient which form of intervention the recipient would  
4 prefer if any of these circumstances should arise. The  
5 recipient's preference shall be noted in the recipient's  
6 record and communicated by the facility to the recipient's  
7 guardian or substitute decision maker, if any, and any other  
8 individual designated by the recipient. If any such  
9 circumstances subsequently do arise, the facility shall give  
10 due consideration to the preferences of the recipient  
11 regarding which form of intervention to use as communicated to  
12 the facility by the recipient or as stated in the recipient's  
13 advance directive.

14 (Source: P.A. 102-593, eff. 8-27-21.)

15 (405 ILCS 5/2-201) (from Ch. 91 1/2, par. 2-201)

16 Sec. 2-201. (a) Whenever any rights of a recipient of  
17 services that are specified in this Chapter are restricted,  
18 the professional responsible for overseeing the implementation  
19 of the recipient's services plan shall be responsible for  
20 promptly giving notice of the restriction or use of restraint  
21 or seclusion and the reason therefor to:

22 (1) the recipient and, if such recipient is a minor or  
23 under guardianship, his parent or guardian;

24 (2) a person designated under subsection (b) of  
25 Section 2-200 upon commencement of services or at any

1 later time to receive such notice;

2 (3) the facility director;

3 (4) the Department of Disability Advocacy and  
4 Guardianship and Advocacy Commission, or the agency  
5 designated under "An Act in relation to the protection and  
6 advocacy of the rights of persons with developmental  
7 disabilities, and amending Acts therein named", approved  
8 September 20, 1985, if either is so designated; and

9 (5) the recipient's substitute decision maker, if any.

10 The professional shall also be responsible for promptly  
11 recording such restriction or use of restraint or seclusion  
12 and the reason therefor in the recipient's record.

13 (b) The facility director shall maintain a file of all  
14 notices of restrictions of rights, or the use of restraint or  
15 seclusion for the past 3 years. The facility director shall  
16 allow the Department of Disability Advocacy and Guardianship  
17 ~~and Advocacy Commission~~, the agency designated by the Governor  
18 under Section 1 of "An Act in relation to the protection and  
19 advocacy of the rights of persons with developmental  
20 disabilities, and amending Acts therein named," approved  
21 September 20, 1985, and the Department to examine and copy  
22 such records upon request. Records obtained under this Section  
23 shall not be further disclosed except pursuant to written  
24 authorization of the recipient under Section 5 of the Mental  
25 Health and Developmental Disabilities Confidentiality Act.

26 (Source: P.A. 91-726, eff. 6-2-00.)

1 (405 ILCS 5/3-206) (from Ch. 91 1/2, par. 3-206)

2 Sec. 3-206. Whenever a person is admitted or objects to  
3 admission, and whenever a recipient is notified that his legal  
4 status is to be changed, the facility director of the mental  
5 health facility shall provide the person, if he is 12 or older,  
6 with the address and phone number of the Department of  
7 Disability Advocacy and Guardianship ~~and Advocacy Commission~~.  
8 If the person requests, the facility director shall assist him  
9 in contacting the Department of Disability Advocacy and  
10 Guardianship ~~Commission~~.

11 (Source: P.A. 88-380.)

12 (405 ILCS 5/3-405) (from Ch. 91 1/2, par. 3-405)

13 Sec. 3-405. (a) If the facility director of a Department  
14 mental health facility declines to admit a person seeking  
15 admission under Articles III or IV of this Chapter, a review of  
16 the denial may be requested by the person seeking admission  
17 or, with his consent, by an interested person on his behalf.  
18 Such a request may be made on behalf of a minor presented for  
19 admission under Section 3-502, 3-503 or 3-504 by the minor's  
20 attorney, by the parent, guardian or person in loco parentis  
21 who executed the application for his admission, or by the  
22 minor himself if he is 16 years of age or older. Whenever  
23 admission to a Department facility is denied, the person  
24 seeking admission shall immediately be given written notice of

1 the right to request review of the denial under this Section  
2 and shall be provided, if he is 12 or older, with the address  
3 and phone number of the Department of Disability Advocacy and  
4 Guardianship ~~and Advocacy Commission~~. If the person requests,  
5 the facility director shall assist him in contacting the  
6 Department of Disability Advocacy and Guardianship ~~Commission~~.  
7 A written request for review shall be submitted to the  
8 director of the facility that denied admission within 14 days  
9 of the denial. Upon receipt of the request, the facility  
10 director shall promptly schedule a hearing to be held at the  
11 denying facility within 7 days pursuant to Section 3-207.

12 (b) At the hearing the Department shall have the burden of  
13 proving that the person denied admission does not meet the  
14 standard set forth in the Section under which admission is  
15 sought or that an appropriate alternative community treatment  
16 program was available to meet the person's needs and was  
17 offered. If the utilization review committee finds that the  
18 decision denying admission is based upon substantial evidence,  
19 it shall recommend that the denial of admission be upheld.  
20 However, if it finds that the facility to which admission is  
21 sought can provide adequate and appropriate treatment for the  
22 person and no appropriate community alternative treatment is  
23 available, it shall recommend that the person denied admission  
24 be admitted. If it determines that another facility can  
25 provide treatment appropriate to the clinical condition and  
26 needs of the person denied admission, it may recommend that

1 the Department or other agency assist the person in obtaining  
2 such treatment.

3 (Source: P.A. 91-726, eff. 6-2-00.)

4 (405 ILCS 5/3-805) (from Ch. 91 1/2, par. 3-805)

5 Sec. 3-805. Every respondent alleged to be subject to  
6 involuntary admission on an inpatient or outpatient basis  
7 shall be represented by counsel. If the respondent is indigent  
8 or an appearance has not been entered on his behalf at the time  
9 the matter is set for hearing, the court shall appoint counsel  
10 for him. A hearing shall not proceed when a respondent is not  
11 represented by counsel unless, after conferring with counsel,  
12 the respondent requests to represent himself and the court is  
13 satisfied that the respondent has the capacity to make an  
14 informed waiver of his right to counsel. Counsel shall be  
15 allowed time for adequate preparation and shall not be  
16 prevented from conferring with the respondent at reasonable  
17 times nor from making an investigation of the matters in issue  
18 and presenting such relevant evidence as he believes is  
19 necessary.

20 1. If the court determines that the respondent is unable  
21 to obtain counsel, the court shall appoint as counsel an  
22 attorney employed by or under contract with the Department of  
23 Disability Advocacy and Guardianship ~~and Mental Health~~  
24 ~~Advocacy Commission~~, if available.

25 2. If an attorney from the Department of Disability

1 Advocacy and Guardianship and ~~Mental Health Advocacy~~  
2 ~~Commission~~ is not available, the court shall appoint as  
3 counsel the public defender or, only if no public defender is  
4 available, an attorney licensed to practice law in this State.

5 3. Upon filing with the court of a verified statement of  
6 legal services rendered by the private attorney appointed  
7 pursuant to paragraph (2) of this Section, the court shall  
8 determine a reasonable fee for such services. If the  
9 respondent is unable to pay the fee, the court shall enter an  
10 order upon the county to pay the entire fee or such amount as  
11 the respondent is unable to pay.

12 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

13 (405 ILCS 5/3-910) (from Ch. 91 1/2, par. 3-910)

14 Sec. 3-910. (a) Whenever a recipient who has been in a  
15 Department facility for more than 7 days is to be transferred  
16 to another facility under Section 3-908, the facility director  
17 of the facility shall give written notice at least 14 days  
18 before the transfer to the recipient, his attorney, guardian,  
19 if any, and responsible relative. In the case of a minor,  
20 notice shall be given to his attorney, to the parent,  
21 guardian, or person in loco parentis who executed the  
22 application for his admission, and to the minor himself if he  
23 is 12 years of age or older. The notice shall include the  
24 reasons for transfer, a statement of the right to object and  
25 the address and phone number of the Department of Disability

1 Advocacy and Guardianship ~~and Advocacy Commission~~. If the  
2 recipient requests, the facility director shall assist him in  
3 contacting the Department of Disability Advocacy and  
4 Guardianship ~~Commission~~.

5 (b) In an emergency, when the health of the recipient or  
6 the physical safety of the recipient or others is imminently  
7 imperiled and appropriate care is not available where the  
8 recipient is located, a recipient may be immediately  
9 transferred to another facility provided that notice of the  
10 transfer is given as soon as possible but not more than 48  
11 hours after transfer. The reason for the emergency shall be  
12 noted in the recipient's record and specified in the notice.

13 (c) A recipient may object to his transfer or his  
14 attorney, guardian, or responsible relative may object on his  
15 behalf. In the case of a minor, his attorney, the person who  
16 executed the application for admission, or the minor himself  
17 if he is 12 years of age or older, may object to the transfer.  
18 Prior to transfer or within 14 days after an emergency  
19 transfer, a written objection shall be submitted to the  
20 facility director of the facility where the recipient is  
21 located. Upon receipt of an objection, the facility director  
22 shall promptly schedule a hearing to be held within 7 days  
23 pursuant to Section 3-207. The hearing shall be held at the  
24 transferring facility except that when an emergency transfer  
25 has taken place the hearing may be held at the receiving  
26 facility. Except in an emergency, no transfer shall proceed

1 pending hearing on an objection.

2 (d) At the hearing the Department shall have the burden of  
3 proving that the standard for transfer under Section 3-908 is  
4 met. If the transfer is to a facility which is substantially  
5 more physically restrictive than the transferring facility,  
6 the Department shall also prove that the transfer is  
7 reasonably required for the safety of the recipient or others.  
8 If the utilization review committee finds that the Department  
9 has sustained its burden and the decision to transfer is based  
10 upon substantial evidence, it shall recommend that the  
11 transfer proceed. If it does not so find, it shall recommend  
12 that the recipient not be transferred.

13 (Source: P.A. 88-380.)

14 (405 ILCS 5/4-201.1) (from Ch. 91 1/2, par. 4-201.1)

15 Sec. 4-201.1. (a) A person residing in a Department mental  
16 health facility who is evaluated as having a mild or moderate  
17 intellectual disability, an attorney or advocate representing  
18 the person, or a guardian of such person may object to the  
19 Department facility director's certification required in  
20 Section 4-201, the treatment and habilitation plan, or  
21 appropriateness of setting, and obtain an administrative  
22 decision requiring revision of a treatment or habilitation  
23 plan or change of setting, by utilization review as provided  
24 in Sections 3-207 and 4-209 of this Code. As part of this  
25 utilization review, the Committee shall include as one of its

1 members a qualified intellectual disabilities professional.

2 (b) The mental health facility director shall give written  
3 notice to each person evaluated as having a mild or moderate  
4 intellectual disability, the person's attorney and guardian,  
5 if any, or in the case of a minor, to his or her attorney, to  
6 the parent, guardian or person in loco parentis and to the  
7 minor if 12 years of age or older, of the person's right to  
8 request a review of the facility director's initial or  
9 subsequent determination that such person is appropriately  
10 placed or is receiving appropriate services. The notice shall  
11 also provide the address and phone number of the Division of  
12 Legal Advocacy ~~Service~~ of the Department of Disability  
13 Advocacy and Guardianship and Advocacy Commission, which the  
14 person or guardian can contact for legal assistance. If  
15 requested, the facility director shall assist the person or  
16 guardian in contacting the Division of Legal Advocacy ~~Service~~.  
17 This notice shall be given within 24 hours of ~~Department's~~  
18 evaluation by the Department of Human Services that the person  
19 has a mild or moderate intellectual disability.

20 (c) Any recipient of services who successfully challenges  
21 a final decision of the Secretary of the Department (or his or  
22 her designee) reviewing an objection to the certification  
23 required under Section 4-201, the treatment and habilitation  
24 plan, or the appropriateness of the setting shall be entitled  
25 to recover reasonable attorney's fees incurred in that  
26 challenge, unless the Department's position was substantially

1 justified.

2 (Source: P.A. 99-143, eff. 7-27-15.)

3 (405 ILCS 5/4-203) (from Ch. 91 1/2, par. 4-203)

4 Sec. 4-203. (a) Every developmental disabilities facility  
5 shall maintain adequate records which shall include the  
6 Section of this Act under which the client was admitted, any  
7 subsequent change in the client's status, and requisite  
8 documentation for such admission and status.

9 (b) The Department shall ensure that a monthly report is  
10 maintained for each Department mental health facility, and  
11 each unit of a Department developmental disability facility  
12 for dually diagnosed persons, which lists (1) initials of  
13 persons admitted to, residing at, or discharged from a  
14 Department mental health facility or unit for dually diagnosed  
15 persons of Department developmental disability facility during  
16 that month with a primary or secondary diagnosis of  
17 intellectual disability, (2) the date and facility and unit of  
18 admission or continuing, care, (3) the legal admission status,  
19 (4) the recipient's diagnosis, (5) the date and facility and  
20 unit of transfer or discharge, (6) whether or not there is a  
21 public or private guardian, (7) whether the facility director  
22 has certified that appropriate treatment and habilitation are  
23 available for and being provided to such person pursuant to  
24 Section 4-203 of this Chapter, and (8) whether the person or a  
25 guardian has requested review as provided in Section 4-209 of

1 this Chapter and, if so, the outcome of the review. The  
2 Secretary of the Department shall furnish a copy of each  
3 monthly report upon request to the Department of Disability  
4 Advocacy and Guardianship ~~and Advocacy Commission~~ and the  
5 agency designated by the Governor under Section 1 of "An Act in  
6 relation to the protection and advocacy of the rights of  
7 persons with developmental disabilities, and amending certain  
8 Acts therein named", approved September 20, 1985, and under  
9 Section 1 of "An Act for the protection and advocacy of  
10 mentally ill persons", approved September 20, 1987.

11 (c) Nothing contained in this Chapter shall be construed  
12 to limit or otherwise affect the power of any developmental  
13 disabilities facility to determine the qualifications of  
14 persons permitted to admit clients to such facility. This  
15 subsection shall not affect or limit the powers of any court to  
16 order admission to a developmental disabilities facility as  
17 set forth in this Chapter.

18 (Source: P.A. 97-227, eff. 1-1-12.)

19 (405 ILCS 5/4-605) (from Ch. 91 1/2, par. 4-605)

20 Sec. 4-605. Every respondent alleged to meet the standard  
21 for judicial admission shall be represented by counsel. If the  
22 respondent is indigent or an appearance has not been entered  
23 on his behalf at the time the matter is set for hearing, the  
24 court shall appoint counsel for him. A hearing shall not  
25 proceed when a respondent is not represented by counsel

1 unless, after conferring with counsel, the respondent requests  
2 to represent himself and the court is satisfied that the  
3 respondent has the capacity to make an informed waiver of his  
4 right to counsel. Counsel shall be allowed time for adequate  
5 preparation and shall not be prevented from conferring with  
6 the respondent at reasonable times nor from making an  
7 investigation of the matters in issue and presenting such  
8 relevant evidence as he believes is necessary.

9 1. If the court determines that the respondent is unable  
10 to obtain counsel, the court shall appoint as counsel an  
11 attorney employed by or under contract with the Department of  
12 Disability Advocacy and Guardianship ~~and Advocacy Commission~~,  
13 if available.

14 2. If an attorney from the Department of Disability  
15 Advocacy and Guardianship ~~and Advocacy Commission~~ is not  
16 available, the court shall appoint as counsel the public  
17 defender or, only if no public defender is available, an  
18 attorney licensed to practice law in this State.

19 3. Upon filing with the court of a verified statement of  
20 legal services rendered by the private attorney appointed  
21 pursuant to paragraph (2) of this Section, the court shall  
22 determine a reasonable fee for such services. If the  
23 respondent is unable to pay the fee, the court shall enter an  
24 order upon the county to pay the entire fee or such amount as  
25 the respondent is unable to pay.

26 (Source: P.A. 85-1247.)

1 (405 ILCS 5/5-100) (from Ch. 91 1/2, par. 5-100)

2 Sec. 5-100. Written notice of the death of a recipient of  
3 services which occurs at a mental health or developmental  
4 disabilities facility, or the death of a recipient of services  
5 who has not been discharged from a mental health or  
6 developmental disabilities facility but whose death occurs  
7 elsewhere, shall within 10 days of the death of a recipient be  
8 mailed to the Department of Public Health which, for the  
9 primary purpose of monitoring patterns of abuse and neglect of  
10 recipients of services, shall make such notices available to  
11 the Department of Disability Advocacy and Guardianship ~~and~~  
12 ~~Advocacy Commission~~ and to the agency designated by the  
13 Governor under Section 1 of "An Act in relation to the  
14 protection and advocacy of the rights of persons with  
15 developmental disabilities, and amending Acts therein named",  
16 approved September 20, 1985. Such notice shall include the  
17 name of the recipient, the name and address of the facility at  
18 which the death occurred, the recipient's age, the nature of  
19 the recipient's condition, including any evidence of the  
20 previous injuries or disabilities, or relevant medical  
21 conditions or any other information which might be helpful in  
22 establishing the cause of death.

23 Written notice of the death of a recipient of services who  
24 was admitted by court order, and the cause thereof shall, in  
25 all cases, be mailed by the facility director to the court

1 entering the original admission order, and if possible, to the  
2 same judge, and the time, place and alleged cause of such death  
3 shall be entered upon the docket. Such notice must be mailed  
4 within 10 days following the death of the recipient.

5 In the event of a sudden or mysterious death of any  
6 recipient of services at any public or private facility, a  
7 coroner's inquest shall be held as provided by law in other  
8 cases.

9 In cases where the deceased person was a recipient or  
10 client of any state facility, and the fees for holding an  
11 inquest cannot be collected out of his estate, such fees shall  
12 be paid by the Department.

13 (Source: P.A. 88-380.)

14 Section 100. The Alzheimer's Disease Assistance Act is  
15 amended by changing Section 6 as follows:

16 (410 ILCS 405/6) (from Ch. 111 1/2, par. 6956)

17 Sec. 6. Alzheimer's Disease Advisory Committee.

18 (a) There is created the Alzheimer's Disease Advisory  
19 Committee consisting of 17 voting members appointed by the  
20 Director of the Department, as well as 5 nonvoting members as  
21 hereinafter provided in this Section. The Director or his  
22 designee shall serve as one of the 17 voting members and as the  
23 Chairman of the Committee. Those appointed as voting members  
24 shall include persons who are experienced in research and the

1 delivery of services to individuals with Alzheimer's disease  
2 or a related disorder and their families. Such members shall  
3 include:

4 (1) one individual from a statewide association  
5 dedicated to Alzheimer's care, support, and research;

6 (2) one individual from a non-governmental statewide  
7 organization that advocates for seniors;

8 (3) the Dementia Coordinator of the Illinois  
9 Department of Public Health, or the Dementia Coordinator's  
10 designee;

11 (4) one individual representing the Community Care  
12 Program's Home and Community Services Division;

13 (5) one individual representing the Adult Protective  
14 Services Unit;

15 (6) 3 individuals from Alzheimer's Disease Assistance  
16 Centers;

17 (7) one individual from a statewide association  
18 representing an adult day service organization;

19 (8) one individual from a statewide association  
20 representing home care providers;

21 (9) one individual from a statewide trade organization  
22 representing the interests of physicians licensed to  
23 practice medicine in all of its branches in Illinois;

24 (10) one individual representing long-term care  
25 facilities licensed under the Nursing Home Care Act, an  
26 assisted living establishment licensed under the Assisted

1 Living and Shared Housing Act, or supportive living  
2 facilities;

3 (11) one individual from a statewide association  
4 representing the interests of social workers;

5 (12) one individual representing Area Agencies on  
6 Aging;

7 (13) the Medicaid Director of the Department of  
8 Healthcare and Family Services, or the Medicaid Director's  
9 designee;

10 (14) one individual from a statewide association  
11 representing health education and promotion and public  
12 health advocacy; and

13 (15) one individual with medical or academic  
14 experience with early onset Alzheimer's disease or related  
15 disorders.

16 (b) In addition to the 17 voting members, the Directors of  
17 the following State agencies or their designees who are  
18 qualified to represent each Department's programs and services  
19 for those with Alzheimer's disease or related disorders shall  
20 serve as nonvoting members: Department on Aging, Department of  
21 Healthcare and Family Services, Department of Public Health,  
22 Department of Human Services, and Department of Disability  
23 Advocacy and Guardianship ~~and Advocacy Commission~~.

24 Each voting member appointed by the Director of Public  
25 Health shall serve for a term of 2 years, and until his  
26 successor is appointed and qualified. Members of the Committee

1 shall not be compensated but shall be reimbursed for expenses  
2 actually incurred in the performance of their duties.  
3 Vacancies shall be filled in the same manner as original  
4 appointments.

5 The Committee shall review all State programs and services  
6 provided by State agencies that are directed toward persons  
7 with Alzheimer's disease and related dementias, and by  
8 consensus recommend changes to improve the State's response to  
9 this serious health problem. Such recommendations shall be  
10 included in the State plan described in this Act.

11 (Source: P.A. 101-588, eff. 1-1-20.)

12 Section 103. The Vital Records Act is amended by changing  
13 Section 25.2 as follows:

14 (410 ILCS 535/25.2)

15 Sec. 25.2. Division ~~Office~~ of State Guardian birth record  
16 request.

17 (a) For purposes of this Section, an individual's status  
18 as a person under guardianship of ~~with~~ the Division ~~Office~~ of  
19 State Guardian may be verified with a copy of the court order  
20 placing the individual under the guardianship of the Division  
21 ~~Office~~ of State Guardian.

22 (b) The applicable fees under Section 17 for a new  
23 certificate of birth and under Section 25 for a search for a  
24 birth record or certified copy of a birth record shall be

1 waived for requests made by the Division ~~Office~~ of State  
2 Guardian to the Office of the State Registrar of Vital Records  
3 in Springfield for an individual under guardianship of the  
4 Division ~~Office~~ of State Guardian, whose status is verified  
5 under subsection (a) of this Section.

6 (c) The State Registrar of Vital Records shall establish  
7 standards and procedures consistent with this Section for  
8 waiver of the applicable fees.

9 (d) An individual under guardianship shall be provided no  
10 more than 4 birth records annually under this Section.

11 (Source: P.A. 103-682, eff. 7-1-25.)

12 Section 105. The Clerks of Courts Act is amended by  
13 changing Section 27.3f as follows:

14 (705 ILCS 105/27.3f)

15 Sec. 27.3f. Guardianship and advocacy operations fee.

16 (a) As used in this Section, "guardianship and advocacy"  
17 means the guardianship and advocacy services provided by the  
18 Department of Disability Advocacy and Guardianship ~~and~~  
19 ~~Advocacy Commission~~ and defined in the Guardianship and  
20 Advocacy Act. Viable public guardianship and advocacy  
21 programs, including the public guardianship programs created  
22 and supervised in probate proceedings in the Illinois courts,  
23 are essential to the administration of justice and ensure that  
24 incapacitated persons and their estates are protected. To

1 defray the expense of maintaining and operating the divisions  
2 and programs of the Department of Disability Advocacy and  
3 Guardianship and ~~Advocacy Commission~~ and to support viable  
4 guardianship and advocacy programs throughout Illinois, each  
5 circuit court clerk shall charge and collect a fee on all  
6 matters filed in probate cases in accordance with this  
7 Section, but no fees shall be assessed against the Division of  
8 State Guardian, any State agency under the jurisdiction of the  
9 Governor, any public guardian, or any State's Attorney.

10 (b) No fee specified in this Section shall be imposed in  
11 any minor guardianship established under Article XI of the  
12 Probate Act of 1975, or against an indigent person. An  
13 indigent person shall include any person who meets one or more  
14 of the following criteria:

15 (1) He or she is receiving assistance under one or  
16 more of the following public benefits programs:  
17 Supplemental Security Income (SSI), Aid to the Aged,  
18 Blind, and Disabled (AABD), Temporary Assistance for Needy  
19 Families (TANF), Supplemental Nutrition Assistance Program  
20 (SNAP) (formerly Food Stamps), General Assistance, State  
21 Transitional Assistance, or State Children and Family  
22 Assistance.

23 (2) His or her available income is 125% or less of the  
24 current poverty level as established by the United States  
25 Department of Health and Human Services, unless the  
26 applicant's assets that are not exempt under Part 9 or 10

1 of Article XII of the Code of Civil Procedure are of a  
2 nature and value that the court determines that the  
3 applicant is able to pay the fees, costs, and charges.

4 (3) He or she is, in the discretion of the court,  
5 unable to proceed in an action without payment of fees,  
6 costs, and charges and whose payment of those fees, costs,  
7 and charges would result in substantial hardship to the  
8 person or his or her family.

9 (4) He or she is an indigent person pursuant to  
10 Section 5-105.5 of the Code of Civil Procedure, providing  
11 that an "indigent person" means a person whose income is  
12 125% or less of the current official federal poverty  
13 guidelines or who is otherwise eligible to receive civil  
14 legal services under the Legal Services Corporation Act of  
15 1974.

16 (c) The clerk is entitled to receive the fee specified in  
17 this Section, which shall be paid in advance, and managed by  
18 the clerk as set out in paragraph (2), except that, for good  
19 cause shown, the court may suspend, reduce, or release the  
20 costs payable under this Section:

21 (1) For administration of the estate of a decedent  
22 (whether testate or intestate) or of a missing person, a  
23 fee of \$100.

24 (2) The guardianship and advocacy operations fee, as  
25 outlined in this Section, shall be in addition to all  
26 other fees and charges and assessable as costs. Five

1 percent of the fee shall be retained by the clerk for  
2 deposit into the Circuit Court Clerk Operation and  
3 Administrative Fund to defray costs of collection and 95%  
4 of the fee shall be disbursed within 60 days after receipt  
5 by the circuit clerk to the State Treasurer for deposit by  
6 the State Treasurer into the Guardianship and Advocacy  
7 Fund.

8 (Source: P.A. 97-1093, eff. 1-1-13.)

9 Section 110. The Criminal Code of 2012 is amended by  
10 changing Section 12-9 as follows:

11 (720 ILCS 5/12-9) (from Ch. 38, par. 12-9)

12 Sec. 12-9. Threatening public officials; human service  
13 providers.

14 (a) A person commits threatening a public official or  
15 human service provider when:

16 (1) that person knowingly delivers or conveys,  
17 directly or indirectly, to a public official or human  
18 service provider by any means a communication:

19 (i) containing a threat that would place the  
20 public official or human service provider or a member  
21 of his or her immediate family in reasonable  
22 apprehension of immediate or future bodily harm,  
23 sexual assault, confinement, or restraint; or

24 (ii) containing a threat that would place the

1 public official or human service provider or a member  
2 of his or her immediate family in reasonable  
3 apprehension that damage will occur to property in the  
4 custody, care, or control of the public official or  
5 his or her immediate family; and

6 (2) the threat was conveyed because of the performance  
7 or nonperformance of some public duty or duty as a human  
8 service provider, because of hostility of the person  
9 making the threat toward the status or position of the  
10 public official or the human service provider, or because  
11 of any other factor related to the official's public  
12 existence.

13 (a-5) For purposes of a threat to a sworn law enforcement  
14 officer, the threat must contain specific facts indicative of  
15 a unique threat to the person, family or property of the  
16 officer and not a generalized threat of harm.

17 (a-6) For purposes of a threat to a social worker,  
18 caseworker, investigator, or human service provider, the  
19 threat must contain specific facts indicative of a unique  
20 threat to the person, family or property of the individual and  
21 not a generalized threat of harm.

22 (b) For purposes of this Section:

23 (1) "Public official" means a person who is elected to  
24 office in accordance with a statute or who is appointed to  
25 an office which is established, and the qualifications and  
26 duties of which are prescribed, by statute, to discharge a

1 public duty for the State or any of its political  
2 subdivisions or in the case of an elective office any  
3 person who has filed the required documents for nomination  
4 or election to such office. "Public official" includes a  
5 duly appointed assistant State's Attorney, assistant  
6 Attorney General, or Appellate Prosecutor; a sworn law  
7 enforcement or peace officer; a social worker, caseworker,  
8 attorney, or investigator employed by the Department of  
9 Healthcare and Family Services, the Department of Human  
10 Services, the Department of Children and Family Services,  
11 or the Department of Disability Advocacy and Guardianship  
12 ~~and Advocacy Commission~~; or an assistant public guardian,  
13 attorney, social worker, case manager, or investigator  
14 employed by a duly appointed public guardian.

15 (1.5) "Human service provider" means a social worker,  
16 case worker, or investigator employed by an agency or  
17 organization providing social work, case work, or  
18 investigative services under a contract with or a grant  
19 from the Department of Human Services, the Department of  
20 Children and Family Services, the Department of Healthcare  
21 and Family Services, or the Department on Aging.

22 (2) "Immediate family" means a public official's  
23 spouse or child or children.

24 (c) Threatening a public official or human service  
25 provider is a Class 3 felony for a first offense and a Class 2  
26 felony for a second or subsequent offense.

1 (Source: P.A. 100-1, eff. 1-1-18.)

2 Section 115. The Mental Health and Developmental  
3 Disabilities Confidentiality Act is amended by changing  
4 Sections 4, 8, and 8.1 as follows:

5 (740 ILCS 110/4) (from Ch. 91 1/2, par. 804)

6 Sec. 4. (a) The following persons shall be entitled, upon  
7 request, to inspect and copy a recipient's record or any part  
8 thereof:

9 (1) the parent or guardian of a recipient who is under  
10 12 years of age;

11 (2) the recipient if he is 12 years of age or older;

12 (3) the parent or guardian of a recipient who is at  
13 least 12 but under 18 years, if the recipient is informed  
14 and does not object or if the therapist does not find that  
15 there are compelling reasons for denying the access. The  
16 parent or guardian who is denied access by either the  
17 recipient or the therapist may petition a court for access  
18 to the record. Nothing in this paragraph is intended to  
19 prohibit the parent or guardian of a recipient who is at  
20 least 12 but under 18 years from requesting and receiving  
21 the following information: current physical and mental  
22 condition, diagnosis, treatment needs, services provided,  
23 and services needed, including medication, if any;

24 (3.5) the parent or guardian of a minor, regardless of

1 the minor's age, if the minor is involved in special  
2 education services under Section 14-1.11 of the School  
3 Code, and only for the purpose of inspecting and copying a  
4 record of the specific mental health or developmental  
5 services that the parent or guardian consented to on the  
6 recipient's behalf for special education services; or the  
7 designated representative of a student over the age of 18  
8 involved in special education services under Section  
9 14-6.10 of the School Code;

10 (4) the guardian of a recipient who is 18 years or  
11 older;

12 (5) an attorney or guardian ad litem who represents a  
13 minor 12 years of age or older in any judicial or  
14 administrative proceeding, provided that the court or  
15 administrative hearing officer has entered an order  
16 granting the attorney this right;

17 (6) an agent appointed under a recipient's power of  
18 attorney for health care or for property, when the power  
19 of attorney authorizes the access;

20 (7) an attorney-in-fact appointed under the Mental  
21 Health Treatment Preference Declaration Act; or

22 (8) any person in whose care and custody the recipient  
23 has been placed pursuant to Section 3-811 of the Mental  
24 Health and Developmental Disabilities Code.

25 (b) Assistance in interpreting the record may be provided  
26 without charge and shall be provided if the person inspecting

1 the record is under 18 years of age. However, access may in no  
2 way be denied or limited if the person inspecting the record  
3 refuses the assistance. A reasonable fee may be charged for  
4 duplication of a record. However, when requested to do so in  
5 writing by any indigent recipient, the custodian of the  
6 records shall provide at no charge to the recipient, or to the  
7 Department of Disability Advocacy and Guardianship ~~and~~  
8 ~~Advocacy Commission~~, the agency designated by the Governor  
9 under Section 1 of the Protection and Advocacy for Persons  
10 with Developmental Disabilities Act or to any other  
11 not-for-profit agency whose primary purpose is to provide free  
12 legal services or advocacy for the indigent and who has  
13 received written authorization from the recipient under  
14 Section 5 of this Act to receive his records, one copy of any  
15 records in its possession whose disclosure is authorized under  
16 this Act.

17 (c) Any person entitled to access to a record under this  
18 Section may submit a written statement concerning any disputed  
19 or new information, which statement shall be entered into the  
20 record. Whenever any disputed part of a record is disclosed,  
21 any submitted statement relating thereto shall accompany the  
22 disclosed part. Additionally, any person entitled to access  
23 may request modification of any part of the record which he  
24 believes is incorrect or misleading. If the request is  
25 refused, the person may seek a court order to compel  
26 modification.

1 (d) Whenever access or modification is requested, the  
2 request and any action taken thereon shall be noted in the  
3 recipient's record.

4 (e) Nothing in this Section shall be construed to affect  
5 the protection of or access to records under the Illinois  
6 School Student Records Act or the federal Individuals with  
7 Disabilities Education Act.

8 (Source: P.A. 103-474, eff. 1-1-24; 104-263, eff. 1-1-26.)

9 (740 ILCS 110/8) (from Ch. 91 1/2, par. 808)

10 Sec. 8. In the course of an investigation, or in the course  
11 of monitoring issues concerning the rights of recipients or  
12 the services provided to recipients as authorized by  
13 subsection (1) of Section 5 of the Guardianship and Advocacy  
14 Act, the Division of Disability Rights and Protections ~~a~~  
15 ~~regional human rights authority~~ of the Department of  
16 Disability Advocacy and Guardianship and Advocacy Commission  
17 created by the Guardianship and Advocacy Act may inspect and  
18 copy any recipient's records in the possession of a therapist,  
19 agency, department, ~~Department~~ or facility which provides  
20 services to a recipient, including reports of suspected abuse  
21 or neglect of a recipient and information regarding the  
22 disposition of such reports. However, the Division of  
23 Disability Rights and Protections ~~a regional authority~~ may not  
24 inspect or copy records containing personally identifiable  
25 data which cannot be removed without imposing an unreasonable

1 burden on the therapist, agency, department, ~~Department~~ or  
2 facility which provides services, except as provided herein.  
3 The Division of Disability Rights and Protections ~~regional~~  
4 ~~authority~~ shall give written notice to the person entitled to  
5 give consent for the identifiable recipient of services under  
6 Section 4 that it is conducting an investigation or monitoring  
7 and indicating the nature and purpose of the investigation or  
8 monitoring and the need to inspect and copy the recipient's  
9 record. If the person notified objects in writing to such  
10 inspection and copying, the Division of Disability Rights and  
11 Protections ~~regional authority~~ may not inspect or copy the  
12 record. The therapist, agency, department, ~~Department~~ or  
13 facility which provides services may not object on behalf of a  
14 recipient.

15 (Source: P.A. 86-820; 86-1013; 86-1475.)

16 (740 ILCS 110/8.1) (from Ch. 91 1/2, par. 808.1)

17 Sec. 8.1. The agency designated by the Governor under  
18 Section 1 of "An Act in relation to the protection and advocacy  
19 of the rights of persons with developmental disabilities, and  
20 amending Acts therein named", approved September 20, 1985, as  
21 now or hereafter amended, shall have access, for the purpose  
22 of inspection and copying, to the records of a person with  
23 developmental disabilities who resides in a developmental  
24 disability facility or mental health facility, as defined in  
25 Sections 1-107 and 1-114, respectively, of the Mental Health

1 and Developmental Disabilities Code, as now or hereafter  
2 amended, if (a) a complaint is received by such agency from or  
3 on behalf of the person with a developmental disability, and  
4 (b) such person does not have a guardian of the person or the  
5 State or the designee of the State is his or her guardian of  
6 the person. The designated agency shall provide written notice  
7 of the receipt of a complaint to the custodian of the records  
8 of the person from whom or on whose behalf a complaint is  
9 received. The designated agency shall provide to the person  
10 with developmental disabilities and to the Division of his or  
11 her State Guardian guardian, if appointed, written notice of  
12 the nature of the complaint based upon which the designated  
13 agency has gained access to the records. No record or the  
14 contents of any record shall be redisclosed by the designated  
15 agency unless the person with developmental disabilities and  
16 the Division of State Guardian guardian are provided 7 days  
17 advance written notice, except in emergency situations, of the  
18 designated agency's intent to redisclose such record, during  
19 which time the person with developmental disabilities or the  
20 Division of State Guardian guardian may seek to judicially  
21 enjoin the designated agency's redisclosure of such record on  
22 the grounds that such redisclosure is contrary to the  
23 interests of the person with developmental disabilities. If a  
24 person with developmental disabilities resides in a  
25 developmental disability or mental health facility and has a  
26 guardian other than the State or the designee of the State, the

1 facility director shall disclose the guardian's name, address  
2 and telephone number to the designated agency at the agency's  
3 request.

4 Upon written request and after the provision of written  
5 notice to the agency, facility or other body from which  
6 records and other materials are sought of the designated  
7 agency's investigation of problems affecting numbers of  
8 persons with developmental disabilities, the designated agency  
9 shall be entitled to inspect and copy any records or other  
10 materials which may further the agency's investigation of  
11 problems affecting numbers of persons with developmental  
12 disabilities. When required by law any personally identifiable  
13 information of persons with developmental disabilities shall  
14 be removed from the records. However, the designated agency  
15 may not inspect or copy records or other materials when the  
16 removal of personally identifiable information imposes an  
17 unreasonable burden on mental health and developmental  
18 disabilities facilities.

19 For the purposes of this Section, "developmental  
20 disability" means a severe, chronic disability of a person  
21 which -

22 (A) is attributable to a mental or physical impairment or  
23 combination of mental and physical impairments;

24 (B) is manifested before the person attains age 22;

25 (C) is likely to continue indefinitely;

26 (D) results in substantial functional limitations in 3 or

1 more of the following areas of major life activity: (i)  
2 self-care, (ii) receptive and expressive language, (iii)  
3 learning, (iv) mobility, (v) self-direction, (vi) capacity for  
4 independent living, and (vii) economic self-sufficiency; and

5 (E) reflects the person's need for a combination and  
6 sequence of special, interdisciplinary or generic care,  
7 treatment or other services which are of lifelong or extended  
8 duration and are individually planned and coordinated.

9 (Source: P.A. 88-380.)

10 Section 120. The Adoption Act is amended by changing  
11 Section 13 as follows:

12 (750 ILCS 50/13) (from Ch. 40, par. 1516)

13 Sec. 13. Interim order. As soon as practicable after the  
14 filing of a petition for adoption the court shall hold a  
15 hearing for the following purposes:

16 A. In other than an adoption of a related child or an  
17 adoption through an agency, or of an adult:

18 (a) To determine the validity of the consent, provided  
19 that the execution of a consent pursuant to this Act shall  
20 be prima facie evidence of its validity, and provided that  
21 the validity of a consent shall not be affected by the  
22 omission therefrom of the names of the petitioners or  
23 adopting parents at the time the consent is executed or  
24 acknowledged, and further provided that the execution of a

1 consent prior to the filing of a petition for adoption  
2 shall not affect its validity.

3 (b) To determine whether there is available suitable  
4 temporary custodial care for a child sought to be adopted.

5 B. In all cases except standby adoptions and re-adoptions:

6 (a) The court shall appoint some licensed attorney  
7 other than the State's attorney acting in his or her  
8 official capacity as guardian ad litem to represent a  
9 child sought to be adopted. Such guardian ad litem shall  
10 have power to consent to the adoption of the child, if such  
11 consent is required. In the case of a related adoption  
12 where the child sought to be adopted is not a youth in  
13 care, the court shall have the discretion to waive the  
14 appointment of a guardian ad litem.

15 (b) The court shall appoint a guardian ad litem for  
16 all named minors or defendants who are persons under legal  
17 disability, if any. In the case of a related adoption  
18 where the child sought to be adopted is not a youth in  
19 care, the court shall have the discretion to waive the  
20 appointment of a guardian ad litem.

21 (c) If the petition alleges a person to be unfit  
22 pursuant to the provisions of subparagraph (p) of  
23 paragraph D of Section 1 of this Act, such person shall be  
24 represented by counsel. If such person is indigent or an  
25 appearance has not been entered on his behalf at the time  
26 the matter is set for hearing, the court shall appoint as

1 counsel for him either the Department of Disability  
2 Advocacy and Guardianship and ~~Advocacy Commission~~, the  
3 public defender, or, only if no attorney from the  
4 Department of Disability Advocacy and Guardianship and  
5 ~~Advocacy Commission~~ or the public defender is available,  
6 an attorney licensed to practice law in this State.

7 (d) If it is proved to the satisfaction of the court,  
8 after such investigation as the court deems necessary,  
9 that termination of parental rights and temporary  
10 commitment of the child to an agency or to a person deemed  
11 competent by the court, including petitioners, will be for  
12 the welfare of the child, the court may order the child to  
13 be so committed and may terminate the parental rights of  
14 the parents and declare the child a ward of the court or,  
15 if it is not so proved, the court may enter such other  
16 order as it shall deem necessary and advisable.

17 (e) Before an interim custody order is granted under  
18 this Section, service of summons shall be had upon the  
19 parent or parents whose rights have not been terminated,  
20 except as provided in subsection (f). Reasonable notice  
21 and opportunity to be heard shall be given to the parent or  
22 parents after service of summons when the address of the  
23 parent or parents is available. The party seeking an  
24 interim custody order shall make all reasonable efforts to  
25 locate the parent or parents of the child or children they  
26 are seeking to adopt and to notify the parent or parents of

1 the party's request for an interim custody order pursuant  
2 to this Section.

3 (f) An interim custody order may be granted without  
4 notice upon presentation to the court of a written  
5 petition, accompanied by an affidavit, stating that there  
6 is an immediate danger to the child and that irreparable  
7 harm will result to the child if notice is given to the  
8 parent or parents or legal guardian. Upon making a finding  
9 that there is an immediate danger to the child if service  
10 of process is had upon and notice of hearing is given to  
11 the parent or parents or legal guardian prior to the entry  
12 of an order granting temporary custody to someone other  
13 than a parent or legal guardian, the court may enter an  
14 order of temporary custody which shall expire not more  
15 than 10 days after its entry. Every ex parte custody order  
16 granted without notice shall state the injury which the  
17 court sought to avoid by granting the order, the  
18 irreparable injury that would have occurred had notice  
19 been given, and the reason the order was granted without  
20 notice. The matter shall be set down for full hearing  
21 before the expiration of the ex parte order and will be  
22 heard after service of summons is had upon and notice of  
23 hearing is given to the parent or parents or legal  
24 guardian. At the hearing the burden of proof shall be upon  
25 the party seeking to extend the interim custody order to  
26 show that the order was properly granted without notice

1 and that custody should remain with the party seeking to  
2 adopt during the pendency of the adoption proceeding. If  
3 the interim custody order is extended, the reasons for  
4 granting the extension shall be stated in the order.

5 C. In the case of a child born outside the United States or  
6 a territory thereof, if the petitioners have previously been  
7 appointed guardians of such child by a court of competent  
8 jurisdiction in a country other than the United States or a  
9 territory thereof, the court may order that the petitioners  
10 continue as guardians of such child.

11 D. In standby adoption cases:

12 (a) The court shall appoint a licensed attorney other  
13 than the State's Attorney acting in his or her official  
14 capacity as guardian ad litem to represent a child sought  
15 to be adopted. The guardian ad litem shall have power to  
16 consent to the adoption of the child, if consent is  
17 required.

18 (b) The court shall appoint a guardian ad litem for  
19 all named minors or defendants who are persons under legal  
20 disability, if any. In the case of a related adoption  
21 where the child sought to be adopted is not a youth in  
22 care, the court shall have the discretion to waive the  
23 appointment of a guardian ad litem.

24 (c) The court lacks jurisdiction to proceed on the  
25 petition for standby adoption if the child has a living  
26 parent, adoptive parent, or adjudicated parent whose

1 rights have not been terminated and whose whereabouts are  
2 known, unless the parent consents to the standby adoption  
3 or, after receiving notice of the hearing on the standby  
4 adoption petition, fails to object to the appointment of a  
5 standby adoptive parent at the hearing on the petition.

6 (d) The court shall investigate as needed for the  
7 welfare of the child and shall determine whether the  
8 petitioner or petitioners shall be permitted to adopt.

9 (Source: P.A. 102-139, eff. 1-1-22.)

10 Section 125. The Probate Act of 1975 is amended by  
11 changing Sections 11a-3.1, 11a-3.2, 11a-5, 11a-5.1, 11a-8.1,  
12 11a-9, 11a-12, 11a-13, 11a-14.1, 11a-17, 12-4, 13-1, and  
13 13-1.2 as follows:

14 (755 ILCS 5/11a-3.1)

15 Sec. 11a-3.1. Appointment of standby guardian.

16 (a) The guardian of a person with a disability may  
17 designate in any writing, including a will, a person qualified  
18 to act under Section 11a-5 to be appointed as standby guardian  
19 of the person or estate, or both, of the person with a  
20 disability. The guardian may designate in any writing,  
21 including a will, a person qualified to act under Section  
22 11a-5 to be appointed as successor standby guardian of the  
23 person or estate of the person with a disability, or both. The  
24 designation must be witnessed by 2 or more credible witnesses

1 at least 18 years of age, neither of whom is the person  
2 designated as the standby guardian. The designation may be  
3 proved by any competent evidence. If the designation is  
4 executed and attested in the same manner as a will, it shall  
5 have prima facie validity. Prior to designating a proposed  
6 standby guardian, the guardian shall consult with the person  
7 with a disability to determine the preference of the person  
8 with a disability as to the person who will serve as standby  
9 guardian. The guardian shall give due consideration to the  
10 preference of the person with a disability in selecting a  
11 standby guardian.

12 (b) Upon the filing of a petition for the appointment of a  
13 standby guardian, the court may appoint a standby guardian of  
14 the person or estate, or both, of the person with a disability  
15 as the court finds to be in the best interests of the person  
16 with a disability. The court shall apply the same standards  
17 used in determining the suitability of a plenary or limited  
18 guardian in determining the suitability of a standby guardian,  
19 giving due consideration to the preference of the person with  
20 a disability as to a standby guardian. The court may not  
21 appoint the Division Office of State Guardian, pursuant to  
22 Section 30 of the Guardianship and Advocacy Act, or a public  
23 guardian, pursuant to Section 13-5 of this Act, as a standby  
24 guardian, without the written consent of the Division of State  
25 Guardian or public guardian or an authorized representative of  
26 the Division of State Guardian or public guardian.

1 (c) The standby guardian shall take and file an oath or  
2 affirmation that the standby guardian will faithfully  
3 discharge the duties of the office of standby guardian  
4 according to law, and shall file in and have approved by the  
5 court a bond binding the standby guardian so to do, but shall  
6 not be required to file a bond until the standby guardian  
7 assumes all duties as guardian of the person with a disability  
8 under Section 11a-18.2.

9 (d) The designation of a standby guardian may, but need  
10 not, be in the following form:

11 DESIGNATION OF STANDBY GUARDIAN

12 [IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS:

13 A standby guardian is someone who has been appointed  
14 by the court as the person who will act as guardian of the  
15 person with a disability when the guardian of the person  
16 with a disability dies or is no longer willing or able to  
17 make and carry out day-to-day care decisions concerning  
18 the person with a disability. By properly completing this  
19 form, a guardian is naming the person that the guardian  
20 wants to be appointed as the standby guardian of the  
21 person with a disability. Signing the form does not  
22 appoint the standby guardian; to be appointed, a petition  
23 must be filed in and approved by the court.]

24 1. Guardian and Ward. I, (insert name of designating  
25 guardian), currently residing at (insert address of  
26 designating guardian), am the guardian of the following

1 person with a disability: (insert name of ward).

2 2. Standby Guardian. I hereby designate the following  
3 person to be appointed as standby guardian for my ward  
4 listed above: (insert name and address of person  
5 designated).

6 3. Successor Standby Guardian. If the person named in  
7 item 2 above cannot or will not act as standby guardian, I  
8 designate the following person to be appointed as  
9 successor standby guardian for my ward: (insert name and  
10 address of person designated).

11 4. Date and Signature. This designation is made this  
12 (insert day) day of (insert month and year).

13 Signed: (designating guardian)

14 5. Witnesses. I saw the guardian sign this designation  
15 or the guardian told me that the guardian signed this  
16 designation. Then I signed the designation as a witness in  
17 the presence of the guardian. I am not designated in this  
18 instrument to act as a standby guardian for the guardian's  
19 ward. (insert space for names, addresses, and signatures  
20 of 2 witnesses)

21 [END OF FORM]

22 (Source: P.A. 102-72, eff. 1-1-22.)

23 (755 ILCS 5/11a-3.2)

24 Sec. 11a-3.2. Short-term guardian.

25 (a) The guardian of a person with a disability may appoint

1 in writing, without court approval, a short-term guardian of  
2 the person with a disability to take over the guardian's  
3 duties, to the extent provided in Section 11a-18.3, each time  
4 the guardian is unavailable or unable to carry out those  
5 duties. The guardian shall consult with the person with a  
6 disability to determine the preference of the person with a  
7 disability concerning the person to be appointed as short-term  
8 guardian and the guardian shall give due consideration to the  
9 preference of the person with a disability in choosing a  
10 short-term guardian. The written instrument appointing a  
11 short-term guardian shall be dated and shall identify the  
12 appointing guardian, the person with a disability, the person  
13 appointed to be the short-term guardian, and the termination  
14 date of the appointment. The written instrument shall be  
15 signed by, or at the direction of, the appointing guardian in  
16 the presence of at least 2 credible witnesses at least 18 years  
17 of age, neither of whom is the person appointed as the  
18 short-term guardian. The person appointed as the short-term  
19 guardian shall also sign the written instrument, but need not  
20 sign at the same time as the appointing guardian. A guardian  
21 may not appoint the Division ~~Office~~ of State Guardian or a  
22 public guardian as a short-term guardian, without the written  
23 consent of the Division of State Guardian or public guardian  
24 or an authorized representative of the State Guardian or  
25 public guardian.

26 (b) The appointment of the short-term guardian is

1 effective immediately upon the date the written instrument is  
2 executed, unless the written instrument provides for the  
3 appointment to become effective upon a later specified date or  
4 event. A short-term guardian appointed by the guardian shall  
5 have authority to act as guardian of the person with a  
6 disability for a cumulative total of 60 days during any  
7 12-month period. Only one written instrument appointing a  
8 short-term guardian may be in force at any given time.

9 (c) Every appointment of a short-term guardian may be  
10 amended or revoked by the appointing guardian at any time and  
11 in any manner communicated to the short-term guardian or to  
12 any other person. Any person other than the short-term  
13 guardian to whom a revocation or amendment is communicated or  
14 delivered shall make all reasonable efforts to inform the  
15 short-term guardian of that fact as promptly as possible.

16 (d) The appointment of a short-term guardian or successor  
17 short-term guardian does not affect the rights in the person  
18 with a disability of any guardian other than the appointing  
19 guardian.

20 (e) The written instrument appointing a short-term  
21 guardian may, but need not, be in the following form:

22 APPOINTMENT OF SHORT-TERM GUARDIAN

23 [IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS:

24 By properly completing this form, a guardian is  
25 appointing a short-term guardian of the person with a

1 disability for a cumulative total of up to 60 days during  
2 any 12-month period. A separate form shall be completed  
3 each time a short-term guardian takes over guardianship  
4 duties. The person or persons appointed as the short-term  
5 guardian shall sign the form, but need not do so at the  
6 same time as the guardian.]

7 1. Guardian and Ward. I, (insert name of appointing  
8 guardian), currently residing at (insert address of  
9 appointing guardian), am the guardian of the following  
10 person with a disability: (insert name of ward).

11 2. Short-term Guardian. I hereby appoint the following  
12 person as the short-term guardian for my ward: (insert  
13 name and address of appointed person).

14 3. Effective date. This appointment becomes effective:  
15 (check one if you wish it to be applicable)

16 ( ) On the date that I state in writing that I am no  
17 longer either willing or able to make and carry out  
18 day-to-day care decisions concerning my ward.

19 ( ) On the date that a physician familiar with my  
20 condition certifies in writing that I am no longer willing  
21 or able to make and carry out day-to-day care decisions  
22 concerning my ward.

23 ( ) On the date that I am admitted as an in-patient to  
24 a hospital or other health care institution.

25 ( ) On the following date: (insert date).

26 ( ) Other: (insert other).

1 [NOTE: If this item is not completed, the appointment  
2 is effective immediately upon the date the form is signed  
3 and dated below.]

4 4. Termination. This appointment shall terminate on:  
5 (enter a date corresponding to 60 days from the current  
6 date, less the number of days within the past 12 months  
7 that any short-term guardian has taken over guardianship  
8 duties), unless it terminates sooner as determined by the  
9 event or date I have indicated below: (check one if you  
10 wish it to be applicable)

11 ( ) On the date that I state in writing that I am  
12 willing and able to make and carry out day-to-day care  
13 decisions concerning my ward.

14 ( ) On the date that a physician familiar with my  
15 condition certifies in writing that I am willing and able  
16 to make and carry out day-to-day care decisions concerning  
17 my ward.

18 ( ) On the date that I am discharged from the hospital  
19 or other health care institution where I was admitted as  
20 an in-patient, which established the effective date.

21 ( ) On the date which is (state a number of days) days  
22 after the effective date.

23 ( ) Other: (insert other).

24 [NOTE: If this item is not completed, the appointment  
25 will be effective until the 60th day within the past year  
26 during which time any short-term guardian of this ward had

1 taken over guardianship duties from the guardian,  
2 beginning on the effective date.]

3 5. Date and signature of appointing guardian. This  
4 appointment is made this (insert day) day of (insert month  
5 and year).

6 Signed: (appointing guardian)

7 6. Witnesses. I saw the guardian sign this instrument  
8 or I saw the guardian direct someone to sign this  
9 instrument for the guardian. Then I signed this instrument  
10 as a witness in the presence of the guardian. I am not  
11 appointed in this instrument to act as the short-term  
12 guardian for the guardian's ward. (insert space for names,  
13 addresses, and signatures of 2 witnesses)

14 7. Acceptance of short-term guardian. I accept this  
15 appointment as short-term guardian on this (insert day)  
16 day of (insert month and year).

17 Signed: (short-term guardian)

18 [END OF FORM]

19 (f) Each time the guardian appoints a short-term guardian,  
20 the guardian shall: (i) provide the person with a disability  
21 with the name, address, and telephone number of the short-term  
22 guardian; (ii) advise the person with a disability that he has  
23 the right to object to the appointment of the short-term  
24 guardian by filing a petition in court; and (iii) notify the  
25 person with a disability when the short-term guardian will be  
26 taking over guardianship duties and the length of time that

1 the short-term guardian will be acting as guardian.

2 (Source: P.A. 102-72, eff. 1-1-22.)

3 (755 ILCS 5/11a-5) (from Ch. 110 1/2, par. 11a-5)

4 Sec. 11a-5. Who may act as guardian.

5 (a) A person is qualified to act as guardian of the person  
6 and as guardian of the estate of a person with a disability if  
7 the court finds that the proposed guardian is capable of  
8 providing an active and suitable program of guardianship for  
9 the person with a disability and that the proposed guardian:

10 (1) has attained the age of 18 years;

11 (2) is a resident of the United States;

12 (3) is not of unsound mind;

13 (4) is not an adjudged person with a disability as  
14 defined in this Act; and

15 (5) has not been convicted of a felony, unless the  
16 court finds appointment of the person convicted of a  
17 felony to be in the best interests of the person with a  
18 disability, and as part of the best interests  
19 determination, the court has considered the nature of the  
20 offense, the date of offense, and the evidence of the  
21 proposed guardian's rehabilitation. No person shall be  
22 appointed who has been convicted of a felony involving  
23 harm or threat to a minor or an elderly person or a person  
24 with a disability, including a felony sexual offense.

25 (b) Any public agency, or not-for-profit corporation found

1 capable by the court of providing an active and suitable  
2 program of guardianship for the person with a disability,  
3 taking into consideration the nature of such person's  
4 disability and the nature of such organization's services, may  
5 be appointed guardian of the person or of the estate, or both,  
6 of the person with a disability. The court shall not appoint as  
7 guardian an agency or employee of an agency that is directly  
8 providing residential services to the ward. One person or  
9 agency may be appointed guardian of the person and another  
10 person or agency appointed guardian of the estate.

11 (b-5)(1) The court may appoint separate individuals or  
12 entities to act as the guardian of the person and the guardian  
13 of the estate of a person with a disability if the court finds  
14 it is in the best interests of the person with a disability  
15 that separate guardians be appointed. The court shall not  
16 appoint a separate person or entity to act as guardian of the  
17 person or guardian of the estate with a public guardian or the  
18 Division Office of State Guardian unless the public guardian  
19 or the Division Office of State Guardian agrees to such an  
20 appointment.

21 (2) The court may appoint co-guardians to act as guardian  
22 of the person, guardian of the estate, or both the guardian of  
23 the person and the guardian of the estate if the court finds it  
24 is in the best interests of the person with a disability. When  
25 considering appointing co-guardians, the court shall consider  
26 the proposed co-guardians' history of cooperating and working

1 together on behalf of the person with a disability. The court  
2 shall appoint only co-guardians who agree to serve together.  
3 The court shall not appoint a public guardian or the Division  
4 ~~Office~~ of State Guardian as a co-guardian for a person with a  
5 disability.

6 (c) Any corporation qualified to accept and execute trusts  
7 in this State may be appointed guardian or limited guardian of  
8 the estate of a person with a disability.

9 (Source: P.A. 102-72, eff. 1-1-22.)

10 (755 ILCS 5/11a-5.1)

11 Sec. 11a-5.1. Multiple guardianships. The court may not  
12 appoint an individual the guardian of the person or estate of  
13 an adult with disabilities before the individual has disclosed  
14 to the court the number of adults with disabilities over which  
15 the individual is currently appointed as guardian. If the  
16 court determines that an individual is appointed guardian over  
17 more than 5 adults with disabilities, then the court shall  
18 issue an order directing the circuit court clerk to notify the  
19 Department of Disability Advocacy and Guardianship ~~and~~  
20 ~~Advocacy Commission~~, in a form and manner prescribed by the  
21 Department of Disability Advocacy and Guardianship ~~and~~  
22 ~~Advocacy Commission~~. The clerk shall notify the Department of  
23 Disability Advocacy and Guardianship ~~and Advocacy Commission~~  
24 no later than 7 days after the entry of the order. The  
25 Department of Disability Advocacy and Guardianship ~~and~~

1 ~~Advocacy Commission~~ shall maintain a list of all notifications  
2 it receives under this Section for reference by other agencies  
3 or units of government or the public. This Section does not  
4 apply to the Division Office of ~~the~~ State Guardian or a public  
5 guardian.

6 (Source: P.A. 100-659, eff. 1-1-19.)

7 (755 ILCS 5/11a-8.1)

8 Sec. 11a-8.1. Petition for standby guardian of the person  
9 with a disability. The petition for appointment of a standby  
10 guardian of the person or the estate, or both, of a person with  
11 a disability must state, if known: (a) the name, date of birth,  
12 and residence of the person with a disability; (b) the names  
13 and post office addresses of the nearest relatives of the  
14 person with a disability in the following order: (1) the  
15 spouse and adult children, parents and adult brothers and  
16 sisters, if any; if none, (2) nearest adult kindred known to  
17 the petitioner; (c) the name and post office address of the  
18 person having guardianship of the person with a disability,  
19 and of any person or persons acting as agents of the person  
20 with a disability under the Illinois Power of Attorney Act;  
21 (d) the name, post office address, and, in case of any  
22 individual, the age and occupation of the proposed standby  
23 guardian; (e) the preference of the person with a disability  
24 as to the choice of standby guardian; (f) the facts concerning  
25 the consent of the guardian of the person with a disability to

1 the appointment of the standby guardian, or the willingness  
2 and ability of the guardian of the person with a disability to  
3 make and carry out day-to-day care decisions concerning the  
4 person with a disability; (g) the facts concerning the  
5 execution or admission to probate of the written designation  
6 of the standby guardian, if any, a copy of which shall be  
7 attached to or filed with the petition; (h) the facts  
8 concerning any guardianship court actions pending concerning  
9 the person with a disability; and (i) the facts concerning the  
10 willingness of the proposed standby guardian to serve, and in  
11 the case of the Division Office of State Guardian and any  
12 public guardian, evidence of a written acceptance to serve  
13 signed by the Division of State Guardian or public guardian or  
14 an authorized representative of the Division of State Guardian  
15 or public guardian, consistent with subsection (b) of Section  
16 11a-3.1.

17 (Source: P.A. 99-143, eff. 7-27-15.)

18 (755 ILCS 5/11a-9) (from Ch. 110 1/2, par. 11a-9)

19 Sec. 11a-9. Report.

20 (a) The petition for adjudication of disability and for  
21 appointment of a guardian should be accompanied by a report  
22 which contains (1) a description of the nature and type of the  
23 respondent's disability and an assessment of how the  
24 disability impacts on the ability of the respondent to make  
25 decisions or to function independently; (2) an analysis and

1 results of evaluations of the respondent's mental and physical  
2 condition and, where appropriate, educational condition,  
3 adaptive behavior and social skills, which have been performed  
4 within 3 months of the date of the filing of the petition, or,  
5 in the case of an intellectual disability, a psychological  
6 evaluation of the respondent that has been performed by a  
7 clinical psychologist licensed under the Clinical Psychologist  
8 Licensing Act, within one year of the date of the filing of the  
9 petition; (3) an opinion as to whether guardianship is needed,  
10 the type and scope of the guardianship needed, and the reasons  
11 therefor; (4) a recommendation as to the most suitable living  
12 arrangement and, where appropriate, treatment or habilitation  
13 plan for the respondent and the reasons therefor; (5) the  
14 name, business address, business telephone number, and  
15 signatures of all persons who performed the evaluations upon  
16 which the report is based, one of whom shall be a licensed  
17 physician, or may, in the case of an intellectual disability,  
18 be a clinical psychologist licensed under the Clinical  
19 Psychologist Licensing Act, and a statement of the  
20 certification, license, or other credentials that qualify the  
21 evaluators who prepared the report.

22 (b) If for any reason no report accompanies the petition,  
23 the court shall order appropriate evaluations to be performed  
24 by a qualified person or persons and a report prepared and  
25 filed with the court at least 10 days prior to the hearing.

26 (b-5) Upon oral or written motion by the respondent or the

1 guardian ad litem or upon the court's own motion, the court  
2 shall appoint one or more independent experts to examine the  
3 respondent. Upon the filing with the court of a verified  
4 statement of services rendered by the expert or experts, the  
5 court shall determine a reasonable fee for the services  
6 performed. If the respondent is unable to pay the fee, the  
7 court may enter an order upon the petitioner to pay the entire  
8 fee or such amount as the respondent is unable to pay. However,  
9 in cases where the Division Office of State Guardian is the  
10 petitioner, consistent with Section 30 of the Guardianship and  
11 Advocacy Act, no expert services fees shall be assessed  
12 against the Division Office of ~~the~~ State Guardian.

13 (c) Unless the court otherwise directs, any report  
14 prepared pursuant to this Section shall not be made part of the  
15 public record of the proceedings but shall be available to the  
16 court or an appellate court in which the proceedings are  
17 subject to review, to the respondent, the petitioner, the  
18 guardian, and their attorneys, to the respondent's guardian ad  
19 litem, and to such other persons as the court may direct.

20 Accessibility to a report prepared pursuant to this  
21 Section shall be in accordance with Section 5 of the Court  
22 Record and Document Accessibility Act.

23 (Source: P.A. 102-109, eff. 1-1-22; 103-166, eff. 1-1-24.)

24 (755 ILCS 5/11a-12) (from Ch. 110 1/2, par. 11a-12)

25 Sec. 11a-12. Order of appointment.

1 (a) If basis for the appointment of a guardian as  
2 specified in Section 11a-3 is not found, the court shall  
3 dismiss the petition.

4 (b) If the respondent is adjudged to be a person with a  
5 disability and to lack some but not all of the capacity as  
6 specified in Section 11a-3, and if the court finds that  
7 guardianship is necessary for the protection of the person  
8 with a disability, his or her estate, or both, the court shall  
9 appoint a limited guardian for the respondent's person or  
10 estate or both. The court shall enter a written order stating  
11 the factual basis for its findings and specifying the duties  
12 and powers of the guardian and the legal disabilities to which  
13 the respondent is subject.

14 (c) If the respondent is adjudged to be a person with a  
15 disability and to be totally without capacity as specified in  
16 Section 11a-3, and if the court finds that limited  
17 guardianship will not provide sufficient protection for the  
18 person with a disability, his or her estate, or both, the court  
19 shall appoint a plenary guardian for the respondent's person  
20 or estate or both. The court shall enter a written order  
21 stating the factual basis for its findings.

22 (d) The selection of the guardian shall be in the  
23 discretion of the court, which shall give due consideration to  
24 the preference of the person with a disability as to a  
25 guardian, as well as the qualifications of the proposed  
26 guardian, in making its appointment. However, the paramount

1 concern in the selection of the guardian is the best interests  
2 and well-being of the person with a disability.

3 One person or agency may be appointed a limited or plenary  
4 guardian of the person and another person or corporate trustee  
5 appointed as a limited or plenary guardian of the estate. If  
6 different persons are appointed, the court shall consider the  
7 factors set forth in subsection (b-5) of Section 11a-5. The  
8 court shall enter a written order stating the factual basis  
9 for its findings.

10 (e) The order of appointment of a guardian shall include  
11 the requirement that the guardian complete the training  
12 program as provided in Section 33.5 of the Guardianship and  
13 Advocacy Act that outlines the responsibilities of the  
14 guardian of the person and the rights of the person under  
15 guardianship and file with the court a certificate of  
16 completion within one year from the date of issuance of the  
17 letters of guardianship, except that: (1) the chief judge of  
18 any circuit may order implementation of another training  
19 program by a suitable provider containing substantially  
20 similar content; (2) employees of the Division ~~Office~~ of ~~the~~  
21 State Guardian, public guardians, attorneys currently  
22 authorized to practice law, corporate fiduciaries, and persons  
23 certified by the Center for Guardianship Certification are  
24 exempt from this training requirement; and (3) the court may,  
25 for good cause shown, exempt from this requirement an  
26 individual not otherwise listed in item (2). For the purposes

1 of this subsection (e), good cause may be proven by affidavit.  
2 If the court finds good cause to exempt an individual from the  
3 training requirement, the order of appointment shall so state.  
4 (Source: P.A. 104-237, eff. 1-1-26.)

5 (755 ILCS 5/11a-13) (from Ch. 110 1/2, par. 11a-13)  
6 Sec. 11a-13. Costs in certain cases.)

7 (a) No costs may be taxed or charged by any public officer  
8 in any proceeding for the appointment of a guardian or for any  
9 subsequent proceeding or report made in pursuance of the  
10 appointment when the primary purpose of the appointment is as  
11 set forth in Section 11-11 or is the management of the estate  
12 of a person with a mental disability who resides in a state  
13 mental health or developmental disabilities facility when the  
14 value of the personal estate does not exceed \$1,000.

15 (b) No costs shall be taxed or charged against the  
16 Division Office of ~~the~~ State Guardian by any public officer in  
17 any proceeding for the appointment of a guardian or for any  
18 subsequent proceeding or report made in pursuance of the  
19 appointment.

20 (Source: P.A. 99-143, eff. 7-27-15.)

21 (755 ILCS 5/11a-14.1) (from Ch. 110 1/2, par. 11a-14.1)

22 Sec. 11a-14.1. Residential placement.) No guardian  
23 appointed under this Article, except for duly appointed Public  
24 Guardians and the Division Office of State Guardian, shall

1 have the power, unless specified by court order, to place his  
2 ward in a residential facility. The guardianship order may  
3 specify the conditions on which the guardian may admit the  
4 ward to a residential facility without further court order. In  
5 making residential placement decisions, the guardian shall  
6 make decisions in conformity with the preferences of the ward  
7 unless the guardian is reasonably certain that the decisions  
8 will result in substantial harm to the ward or to the ward's  
9 estate. When the preferences of the ward cannot be ascertained  
10 or where they will result in substantial harm to the ward or to  
11 the ward's estate, the guardian shall make decisions with  
12 respect to the ward's placement which are in the best  
13 interests of the ward. The guardian shall not remove the ward  
14 from his or her home or separate the ward from family and  
15 friends unless such removal is necessary to prevent  
16 substantial harm to the ward or to the ward's estate. The  
17 guardian shall have a duty to investigate the availability of  
18 reasonable residential alternatives. The guardian shall  
19 monitor the placement of the ward on an on-going basis to  
20 ensure its continued appropriateness, and shall pursue  
21 appropriate alternatives as needed.

22 (Source: P.A. 90-250, eff. 7-29-97.)

23 (755 ILCS 5/11a-17) (from Ch. 110 1/2, par. 11a-17)

24 Sec. 11a-17. Duties of personal guardian.

25 (a) To the extent ordered by the court and under the

1 direction of the court, the guardian of the person shall have  
2 custody of the ward and the ward's minor and adult dependent  
3 children and shall procure for them and shall make provision  
4 for their support, care, comfort, health, education and  
5 maintenance, and professional services as are appropriate, but  
6 the ward's spouse may not be deprived of the custody and  
7 education of the ward's minor and adult dependent children,  
8 without the consent of the spouse, unless the court finds that  
9 the spouse is not a fit and competent person to have that  
10 custody and education. The guardian shall assist the ward in  
11 the development of maximum self-reliance and independence. The  
12 guardian of the person may petition the court for an order  
13 directing the guardian of the estate to pay an amount  
14 periodically for the provision of the services specified by  
15 the court order. If the ward's estate is insufficient to  
16 provide for education and the guardian of the ward's person  
17 fails to provide education, the court may award the custody of  
18 the ward to some other person for the purpose of providing  
19 education. If a person makes a settlement upon or provision  
20 for the support or education of a ward, the court may make an  
21 order for the visitation of the ward by the person making the  
22 settlement or provision as the court deems proper. A guardian  
23 of the person may not admit a ward to a mental health facility  
24 except at the ward's request as provided in Article IV of the  
25 Mental Health and Developmental Disabilities Code and unless  
26 the ward has the capacity to consent to such admission as

1 provided in Article IV of the Mental Health and Developmental  
2 Disabilities Code.

3 (a-3) If a guardian of an estate has not been appointed,  
4 the guardian of the person may, without an order of court,  
5 open, maintain, and transfer funds to an ABLE account on  
6 behalf of the ward and the ward's minor and adult dependent  
7 children as specified under Section 16.6 of the State  
8 Treasurer Act.

9 (a-5) If the ward filed a petition for dissolution of  
10 marriage under the Illinois Marriage and Dissolution of  
11 Marriage Act before the ward was adjudicated a person with a  
12 disability under this Article, the guardian of the ward's  
13 person and estate may maintain that action for dissolution of  
14 marriage on behalf of the ward. Upon petition by the guardian  
15 of the ward's person or estate, the court may authorize and  
16 direct a guardian of the ward's person or estate to file a  
17 petition for dissolution of marriage or to file a petition for  
18 legal separation or declaration of invalidity of marriage  
19 under the Illinois Marriage and Dissolution of Marriage Act on  
20 behalf of the ward if the court finds by clear and convincing  
21 evidence that the relief sought is in the ward's best  
22 interests. In making its determination, the court shall  
23 consider the standards set forth in subsection (e) of this  
24 Section.

25 (a-10) Upon petition by the guardian of the ward's person  
26 or estate, the court may authorize and direct a guardian of the

1 ward's person or estate to consent, on behalf of the ward, to  
2 the ward's marriage pursuant to Part II of the Illinois  
3 Marriage and Dissolution of Marriage Act if the court finds by  
4 clear and convincing evidence that the marriage is in the  
5 ward's best interests. In making its determination, the court  
6 shall consider the standards set forth in subsection (e) of  
7 this Section. Upon presentation of a court order authorizing  
8 and directing a guardian of the ward's person and estate to  
9 consent to the ward's marriage, the county clerk shall accept  
10 the guardian's application, appearance, and signature on  
11 behalf of the ward for purposes of issuing a license to marry  
12 under Section 203 of the Illinois Marriage and Dissolution of  
13 Marriage Act.

14 (b) If the court directs, the guardian of the person shall  
15 file with the court at intervals indicated by the court, a  
16 report that shall state briefly: (1) the current mental,  
17 physical, and social condition of the ward and the ward's  
18 minor and adult dependent children; (2) their present living  
19 arrangement, and a description and the address of every  
20 residence where they lived during the reporting period and the  
21 length of stay at each place; (3) a summary of the medical,  
22 educational, vocational, and other professional services given  
23 to them; (4) a resume of the guardian's visits with and  
24 activities on behalf of the ward and the ward's minor and adult  
25 dependent children; (5) a recommendation as to the need for  
26 continued guardianship; (6) any other information requested by

1 the court or useful in the opinion of the guardian. The  
2 Division Office ~~Office~~ of ~~the~~ State Guardian shall assist the  
3 guardian in filing the report when requested by the guardian.  
4 The court may take such action as it deems appropriate  
5 pursuant to the report.

6 (c) Absent court order pursuant to the Illinois Power of  
7 Attorney Act directing a guardian to exercise powers of the  
8 principal under an agency that survives disability, the  
9 guardian has no power, duty, or liability with respect to any  
10 personal or health care matters covered by the agency. This  
11 subsection (c) applies to all agencies, whenever and wherever  
12 executed.

13 (d) A guardian acting as a surrogate decision maker under  
14 the Health Care Surrogate Act shall have all the rights of a  
15 surrogate under that Act without court order including the  
16 right to make medical treatment decisions such as decisions to  
17 forgo or withdraw life-sustaining treatment. Any decisions by  
18 the guardian to forgo or withdraw life-sustaining treatment  
19 that are not authorized under the Health Care Surrogate Act  
20 shall require a court order. Nothing in this Section shall  
21 prevent an agent acting under a power of attorney for health  
22 care from exercising his or her authority under the Illinois  
23 Power of Attorney Act without further court order, unless a  
24 court has acted under Section 2-10 of the Illinois Power of  
25 Attorney Act. If a guardian is also a health care agent for the  
26 ward under a valid power of attorney for health care, the

1 guardian acting as agent may execute his or her authority  
2 under that act without further court order.

3 (e) Decisions made by a guardian on behalf of a ward shall  
4 be made in accordance with the following standards for  
5 decision making. The guardian shall consider the ward's  
6 current preferences to the extent the ward has the ability to  
7 participate in decision making when those preferences are  
8 known or reasonably ascertainable by the guardian. Decisions  
9 by the guardian shall conform to the ward's current  
10 preferences: (1) unless the guardian reasonably believes that  
11 doing so would result in substantial harm to the ward's  
12 welfare or personal or financial interests; and (2) so long as  
13 such decisions give substantial weight to what the ward, if  
14 competent, would have done or intended under the  
15 circumstances, taking into account evidence that includes, but  
16 is not limited to, the ward's personal, philosophical,  
17 religious and moral beliefs, and ethical values relative to  
18 the decision to be made by the guardian. Where possible, the  
19 guardian shall determine how the ward would have made a  
20 decision based on the ward's previously expressed preferences,  
21 and make decisions in accordance with the preferences of the  
22 ward. If the ward's wishes are unknown and remain unknown  
23 after reasonable efforts to discern them, or if the guardian  
24 reasonably believes that a decision made in conformity with  
25 the ward's preferences would result in substantial harm to the  
26 ward's welfare or personal or financial interests, the

1 decision shall be made on the basis of the ward's best  
2 interests as determined by the guardian. In determining the  
3 ward's best interests, the guardian shall weigh the reason for  
4 and nature of the proposed action, the benefit or necessity of  
5 the action, the possible risks and other consequences of the  
6 proposed action, and any available alternatives and their  
7 risks, consequences and benefits, and shall take into account  
8 any other information, including the views of family and  
9 friends, that the guardian believes the ward would have  
10 considered if able to act for herself or himself.

11 (f) Upon petition by any interested person (including the  
12 standby or short-term guardian), with such notice to  
13 interested persons as the court directs and a finding by the  
14 court that it is in the best interests of the person with a  
15 disability, the court may terminate or limit the authority of  
16 a standby or short-term guardian or may enter such other  
17 orders as the court deems necessary to provide for the best  
18 interests of the person with a disability. The petition for  
19 termination or limitation of the authority of a standby or  
20 short-term guardian may, but need not, be combined with a  
21 petition to have another guardian appointed for the person  
22 with a disability.

23 (g) (1) Unless there is a court order to the contrary, the  
24 guardian, consistent with the standards set forth in  
25 subsection (e) of this Section, shall use reasonable efforts  
26 to notify the ward's known adult children, who have requested

1 notification and provided contact information, of the ward's  
2 admission to a hospital, hospice, or palliative care program,  
3 the ward's death, and the arrangements for the disposition of  
4 the ward's remains.

5 (2) If a guardian unreasonably prevents an adult child,  
6 spouse, adult grandchild, parent, or adult sibling of the ward  
7 from visiting the ward, the court, upon a verified petition,  
8 may order the guardian to permit visitation between the ward  
9 and the adult child, spouse, adult grandchild, parent, or  
10 adult sibling. In making its determination, the court shall  
11 consider the standards set forth in subsection (e) of this  
12 Section. The court shall not allow visitation if the court  
13 finds that the ward has capacity to evaluate and communicate  
14 decisions regarding visitation and expresses a desire not to  
15 have visitation with the petitioner. This subsection (g) does  
16 not apply to duly appointed public guardians or the Division  
17 ~~Office~~ of State Guardian.

18 (Source: P.A. 101-329, eff. 8-9-19; 102-72, eff. 1-1-22;  
19 102-258, eff. 8-6-21; 102-813, eff. 5-13-22.)

20 (755 ILCS 5/12-4) (from Ch. 110 1/2, par. 12-4)

21 Sec. 12-4. When security excused or specified.→

22 (a) Except as provided in paragraph (c) of Section 6-13  
23 with respect to a nonresident executor, no security is  
24 required of a person who is excused by the will from giving  
25 bond or security and no greater security than is specified by

1 the will is required, unless in either case the court, from its  
2 own knowledge or the suggestion of any interested person, has  
3 cause to suspect the representative of fraud or incompetence  
4 or believes that the estate of the decedent will not be  
5 sufficient to discharge all the claims against the estate, or  
6 in the case of a testamentary guardian of the estate, that the  
7 rights of the ward will be prejudiced by failure to give  
8 security.

9 (b) If a person designates a guardian of his person or  
10 estate or both to be appointed in the event he is adjudged a  
11 person with a disability as provided in Section 11a-6 and  
12 excuses the guardian from giving bond or security, or if the  
13 guardian is the Division ~~Office~~ of State Guardian, the  
14 guardian's bond in the amount from time to time required under  
15 this Article shall be in full force and effect without  
16 writing, unless the court requires the filing of a written  
17 bond.

18 (c) The Division ~~Office~~ of State Guardian shall not be  
19 required to have sureties or surety companies as security on  
20 its bonds. The oath and bond of the representative without  
21 surety shall be sufficient.

22 (Source: P.A. 99-143, eff. 7-27-15.)

23 (755 ILCS 5/13-1) (from Ch. 110 1/2, par. 13-1)

24 Sec. 13-1. Appointment and term of public administrator  
25 and public guardian.

1 (a) Except as provided in Section 13-1.1, before the first  
2 Monday of December, 1977 and every 4 years thereafter, and as  
3 often as vacancies occur, the Governor, by and with the advice  
4 and consent of the Senate, shall appoint in each county a  
5 suitable person to serve as public administrator and a  
6 suitable person to serve as public guardian of the county. The  
7 Governor may designate, without the advice and consent of the  
8 Senate, the Division ~~Office~~ of State Guardian as an interim  
9 public guardian to fill a vacancy in one or more counties  
10 having a population of 500,000 or less if the designation:

11 (1) is specifically designated as an interim  
12 appointment for a term of the lesser of one year or until  
13 the Governor appoints, with the advice and consent of the  
14 Senate, a county public guardian to fill the vacancy;

15 (2) requires the Division ~~Office~~ of State Guardian to  
16 affirm its availability to act in the county; and

17 (3) expires in a pending case of a person with a  
18 disability in the county at such a time as the court  
19 appoints a qualified successor guardian of the estate and  
20 person for the person with a disability.

21 When appointed as an interim public guardian, the Division  
22 of State Guardian will perform the powers and duties assigned  
23 to it under the Guardianship and Advocacy Act.

24 The Governor may appoint the same person to serve as  
25 public guardian and public administrator in one or more  
26 counties. In considering the number of counties of service for

1 any prospective public guardian or public administrator the  
2 Governor may consider the population of the county and the  
3 ability of the prospective public guardian or public  
4 administrator to travel to multiple counties and manage  
5 estates in multiple counties. Each person so appointed holds  
6 his office for 4 years from the first Monday of December, 1977  
7 and every 4 years thereafter or until his successor is  
8 appointed and qualified.

9 (b) Within 14 days of notification to the current public  
10 guardian of the appointment by the Governor of a new public  
11 guardian pursuant to this Section, the outgoing public  
12 guardian shall provide the incoming successor public guardian  
13 with a list of current guardianships. Within 60 days of  
14 receipt of the list of guardianships, the incoming public  
15 guardian may petition the court for a transfer of a  
16 guardianship to the incoming public guardian. The transfer of  
17 a guardianship of the person, estate, or both shall be made if  
18 it is in the best interests of the ward as determined by the  
19 court on a case-by-case basis.

20 Factors for the court to consider include, but are not  
21 limited to, the following:

22 (1) the ward's preference as to the transfer of the  
23 guardianship;

24 (2) the recommendation of the guardian ad litem, the  
25 ward's family members, and other interested parties;

26 (3) the length of time in which the outgoing public

1 guardian has served as guardian for the ward;

2 (4) the ward's relationship with the outgoing public  
3 guardian's office;

4 (5) the nature and extent of the ward's disabilities;

5 (6) the ward's current residential placement, his or  
6 her current support network, and ongoing needs;

7 (7) the costs involved in the transfer of the ward's  
8 estate;

9 (8) the status of pending legal matters or other  
10 matters germane to the ward's care or the management of  
11 the ward's estate;

12 (9) the obligation to post bond and the cost thereof;

13 (10) the guardians' status with regard to  
14 certification by the Center for Guardianship  
15 Certification; and

16 (11) other good causes.

17 If the court approves a transfer to the incoming public  
18 guardian, the outgoing public guardian shall file a final  
19 account of his or her activities on behalf of the ward within  
20 30 days or within such other time that the court may allow. The  
21 outgoing public guardian may file a petition for final fees  
22 pursuant to subsection (b) of Section 13-3.1.

23 (Source: P.A. 102-72, eff. 1-1-22.)

24 (755 ILCS 5/13-1.2)

25 Sec. 13-1.2. Certification requirement. Each person

1 appointed as a public guardian by the Governor shall be  
2 certified as a National Certified Guardian by the Center for  
3 Guardianship Certification within 6 months after his or her  
4 appointment. The Department of Disability Advocacy and  
5 Guardianship ~~and Advocacy Commission~~ shall provide public  
6 guardians with information about certification requirements  
7 and procedures for testing and certification offered by the  
8 Center for Guardianship Certification. The cost of  
9 certification shall be considered an expense connected with  
10 the operation of the public guardian's office within the  
11 meaning of subsection (b) of Section 13-3.1 of this Article.

12 A public guardian shall additionally complete a one-hour  
13 course regarding Alzheimer's disease and dementia within 6  
14 months of appointment and annually thereafter. The training  
15 program shall include, but not be limited to, the following  
16 topics: effective communication strategies; best practices for  
17 interacting with people with Alzheimer's disease and related  
18 forms of dementia; and strategies for supporting people living  
19 with Alzheimer's disease or related forms of dementia in  
20 exercising their rights.

21 (Source: P.A. 103-64, eff. 1-1-24.)

22 Section 130. The Supported Decision-Making Agreement Act  
23 is amended by changing Section 30 as follows:

24 (755 ILCS 9/30)

1           Sec. 30. Supporter duties.

2           (a) Except as otherwise provided by a supported  
3 decision-making agreement, a supporter may:

4           (1) Assist the principal in understanding information,  
5 options, responsibilities, and consequences of the life  
6 decisions of the principal, including those decisions  
7 related to the affairs or support services of the  
8 principal.

9           (2) Help the principal access, obtain, and understand  
10 any information that is relevant to any given life  
11 decision, including a medical, psychological, financial,  
12 or educational decision, or any treatment records or  
13 records necessary to manage the affairs or support  
14 services of the principal.

15           (3) Assist the principal in finding, obtaining, making  
16 appointments for, and implementing the support services or  
17 plans for support services of the principal.

18           (4) Help the principal monitor information about the  
19 affairs or support services of the principal, including  
20 keeping track of future necessary or recommended services.

21           (5) Ascertain the wishes and decisions of the  
22 principal in order to advocate that the wishes and  
23 decisions of an individual with disabilities are  
24 implemented.

25           (b) A supporter shall act with the care, competence, and  
26 diligence ordinarily exercised by an individual in a similar

1 circumstance, with due regard to the possession of, or lack  
2 of, special skills or expertise.

3 (c) A supporter shall seek training and education  
4 regarding the responsibilities and limitations of the  
5 supporter role. The Department of Disability Advocacy and  
6 Guardianship and Advocacy Commission shall provide public  
7 information about this Act and the supporter role,  
8 responsibilities, and limitations.

9 The Department of Disability Advocacy and Guardianship and  
10 Advocacy Commission shall develop training and education  
11 materials for both principals and supporters, including, but  
12 not limited to, sample agreements that will be posted on the  
13 website of the Department Commission along with public  
14 awareness materials.

15 (Source: P.A. 102-614, eff. 2-27-22.)

16 Section 135. The Illinois Power of Attorney Act is amended  
17 by changing Section 2-7 as follows:

18 (755 ILCS 45/2-7) (from Ch. 110 1/2, par. 802-7)

19 Sec. 2-7. Duty - standard of care - record-keeping -  
20 exoneration.

21 (a) The agent shall be under no duty to exercise the powers  
22 granted by the agency or to assume control of or  
23 responsibility for any of the principal's property, care or  
24 affairs, regardless of the principal's physical or mental

1 condition. Whenever a power is exercised, the agent shall act  
2 in good faith for the benefit of the principal using due care,  
3 competence, and diligence in accordance with the terms of the  
4 agency and shall be liable for negligent exercise. An agent  
5 who acts with due care for the benefit of the principal shall  
6 not be liable or limited merely because the agent also  
7 benefits from the act, has individual or conflicting interests  
8 in relation to the property, care or affairs of the principal  
9 or acts in a different manner with respect to the agency and  
10 the agent's individual interests. The agent shall not be  
11 affected by any amendment or termination of the agency until  
12 the agent has actual knowledge thereof. The agent shall not be  
13 liable for any loss due to error of judgment nor for the act or  
14 default of any other person.

15 (b) An agent that has accepted appointment must act in  
16 accordance with the principal's expectations to the extent  
17 actually known to the agent and otherwise in the principal's  
18 best interests.

19 (c) An agent shall keep a record of all receipts,  
20 disbursements, and significant actions taken under the  
21 authority of the agency and shall provide a copy of this record  
22 when requested to do so by:

23 (1) the principal, a guardian, another fiduciary  
24 acting on behalf of the principal, and, after the death of  
25 the principal, the personal representative or successors  
26 in interest of the principal's estate;

1           (2) a representative of a provider agency, as defined  
2           in Section 2 of the Adult Protective Services Act, acting  
3           in the course of an assessment of a complaint of elder  
4           abuse or neglect under that Act;

5           (3) a representative of the Office of the State Long  
6           Term Care Ombudsman, acting in the course of an  
7           investigation of a complaint of financial exploitation of  
8           a nursing home resident under Section 4.04 of the Illinois  
9           Act on the Aging;

10          (4) a representative of the Office of Inspector  
11          General for the Department of Human Services, acting in  
12          the course of an assessment of a complaint of financial  
13          exploitation of an adult with disabilities pursuant to  
14          Section 35 of the Abuse of Adults with Disabilities  
15          Intervention Act;

16          (5) a court under Section 2-10 of this Act; or

17          (6) a representative of the Division ~~Office~~ of State  
18          Guardian or public guardian for the county in which the  
19          principal resides acting in the course of investigating  
20          whether to file a petition for guardianship of the  
21          principal under Section 11a-4 or 11a-8 of the Probate Act  
22          of 1975.

23          (d) If the agent fails to provide his or her record of all  
24          receipts, disbursements, and significant actions within 21  
25          days after a request under subsection (c), the adult abuse  
26          provider agency, the Division of State Guardian, the public

1 guardian, or a representative of the Office of the State Long  
2 Term Care Ombudsman may petition the court for an order  
3 requiring the agent to produce his or her record of receipts,  
4 disbursements, and significant actions. If the court finds  
5 that the agent's failure to provide his or her record in a  
6 timely manner to the adult abuse provider agency, the Division  
7 of State Guardian, the public guardian, or a representative of  
8 the Office of the State Long Term Care Ombudsman was without  
9 good cause, the court may assess reasonable costs and  
10 attorney's fees against the agent, and order such other relief  
11 as is appropriate.

12 (e) An agent is not required to disclose receipts,  
13 disbursements, or other significant actions conducted on  
14 behalf of the principal except as otherwise provided in the  
15 power of attorney or as required under subsection (c).

16 (f) An agent that violates this Act is liable to the  
17 principal or the principal's successors in interest for the  
18 amount required (i) to restore the value of the principal's  
19 property to what it would have been had the violation not  
20 occurred, and (ii) to reimburse the principal or the  
21 principal's successors in interest for the attorney's fees and  
22 costs paid on the agent's behalf. This subsection does not  
23 limit any other applicable legal or equitable remedies.

24 (Source: P.A. 100-952, eff. 1-1-19.)

25 Section 999. Effective date. This Act takes effect July 1,

1 2027.".