



Rep. Roger L. Eddy

**Filed: 3/12/2010**

09600HB5132ham001

LRB096 18641 KTG 38212 a

1 AMENDMENT TO HOUSE BILL 5132

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5132 by replacing  
3 everything after the enacting clause with the following:

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

6 (20 ILCS 1305/1-17)

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

8 Sec. 1-17. Inspector General.

9 (a) Nature and purpose. It is the express intent of the  
10 General Assembly to ensure the health, safety, and financial  
11 condition of individuals receiving services in this State due  
12 to mental illness, developmental disability, or both by  
13 protecting those persons from acts of abuse, neglect, or both  
14 by service providers. To that end, the Office of the Inspector  
15 General for the Department of Human Services is created to  
16 investigate and report upon allegations of the abuse, neglect,

1 or financial exploitation of individuals receiving services  
2 within mental health facilities, developmental disabilities  
3 facilities, and community agencies operated, licensed, funded  
4 or certified by the Department of Human Services , but not  
5 licensed or certified by any other State agency. It is also the  
6 express intent of the General Assembly to authorize the  
7 Inspector General to investigate alleged or suspected cases of  
8 abuse, neglect, or financial exploitation of adults with  
9 disabilities living in domestic settings in the community under  
10 the Abuse of Adults with Disabilities Intervention Act.

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

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

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

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

1 mental abuse, physical abuse, sexual abuse, neglect, or  
2 financial exploitation.

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

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

9 "Department" means the Department of Human Services.

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

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

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

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

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

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

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

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

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

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

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

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

3 "Mentally ill" means having a mental illness.

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

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

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

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

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

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

7 "Sexual abuse" means any sexual contact or intimate  
8 physical contact between an employee and an individual,  
9 including an employee's coercion or encouragement of an  
10 individual to engage in sexual behavior that results in sexual  
11 contact, intimate physical contact, sexual behavior, or  
12 intimate physical behavior.

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

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

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

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

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

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

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

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

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

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



1 licensing, funding, or certification units of the Department in  
2 preventing further occurrences of mental abuse, physical  
3 abuse, sexual abuse, neglect, egregious neglect, and financial  
4 exploitation.

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

20 (i) Duty to cooperate.

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

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

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

24 (j) Subpoena powers. The Inspector General shall have the  
25 power to subpoena witnesses and compel the production of all  
26 documents and physical evidence relating to his or her

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

11 (k) Reporting allegations and deaths.

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

26 (2) Deaths. Absent an allegation, a required reporter

1 shall, within 24 hours after initial discovery, report by  
2 phone to the Office of the Inspector General hotline each  
3 of the following:

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

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

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

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

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

1 General shall be conducted in a manner designed to ensure the  
2 preservation of evidence for possible use in a criminal  
3 prosecution.

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

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

12 (n) Written responses and reconsideration requests.

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

25 (2) Reconsideration requests. The facility, agency,  
26 victim or guardian, or the subject employee may request

1           that the Office of Inspector General reconsider or clarify  
2           its finding based upon additional information.

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

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

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

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

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

18 (1) Appointment of on-site monitors.

19 (2) Transfer or relocation of an individual or  
20 individuals.

21 (3) Closure of units.

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

23 (i) Department licensing, (ii) funding, ~~or~~ (iii)  
24 certification.

25 The Inspector General may seek the assistance of the  
26 Illinois Attorney General or the office of any State's Attorney



1 in implementing sanctions.

2 (s) Health care worker registry.

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

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

1 Act or under any other federal labor statute.

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

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

1 Testimony at hearings is exempt from the confidentiality  
2 requirements of subsection (f) of Section 10 of the Mental  
3 Health and Developmental Disabilities Confidentiality Act.

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

21 (6) Removal from registry. At any time after the report  
22 to the registry, but no more than once in any 12-month  
23 period, an employee may petition the Department in writing  
24 to remove his or her name from the registry. Upon receiving  
25 notice of such request, the Inspector General shall conduct  
26 an investigation into the petition. Upon receipt of such

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

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

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

25 Members appointed by the Governor shall be qualified by  
26 professional knowledge or experience in the area of law,

1 investigatory techniques, or in the area of care of the  
2 mentally ill or developmentally disabled. Two members  
3 appointed by the Governor shall be persons with a disability or  
4 a parent of a person with a disability. Members shall serve  
5 without compensation, but shall be reimbursed for expenses  
6 incurred in connection with the performance of their duties as  
7 members.

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

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

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

22 (2) Review existing regulations relating to the  
23 operation of facilities.

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

26 (4) Recommend policies concerning methods for

1 improving the intergovernmental relationships between the  
2 Office of the Inspector General and other State or federal  
3 offices.

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

22 (w) Program audit. The Auditor General shall conduct a  
23 program audit of the Office of the Inspector General on an  
24 as-needed basis, as determined by the Auditor General. The  
25 audit shall specifically include the Inspector General's  
26 compliance with the Act and effectiveness in investigating

1 reports of allegations occurring in any facility or agency. The  
2 Auditor General shall conduct the program audit according to  
3 the provisions of the Illinois State Auditing Act and shall  
4 report its findings to the General Assembly no later than  
5 January 1 following the audit period.

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

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

20 (Source: P.A. 95-545, eff. 8-28-07; 96-407, eff. 8-13-09;  
21 96-555, eff. 8-18-09; revised 9-25-09.)

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

23 Sec. 1-17. Inspector General.

24 (a) Nature and purpose. It is the express intent of the  
25 General Assembly to ensure the health, safety, and financial

1 condition of individuals receiving services in this State due  
2 to mental illness, developmental disability, or both by  
3 protecting those persons from acts of abuse, neglect, or both  
4 by service providers. To that end, the Office of the Inspector  
5 General for the Department of Human Services is created to  
6 investigate and report upon allegations of the abuse, neglect,  
7 or financial exploitation of individuals receiving services  
8 within mental health facilities, developmental disabilities  
9 facilities, and community agencies operated, licensed, funded,  
10 or certified by the Department of Human Services or ~~, but not~~  
11 ~~licensed or certified~~ by any other State agency. It is also the  
12 express intent of the General Assembly to authorize the  
13 Inspector General to investigate alleged or suspected cases of  
14 abuse, neglect, or financial exploitation of adults with  
15 disabilities living in domestic settings in the community under  
16 the Abuse of Adults with Disabilities Intervention Act.

17 (b) Definitions. The following definitions apply to this  
18 Section:

19 "Agency" or "community agency" means (i) a community agency  
20 licensed, funded, or certified by the Department or ~~, but not~~  
21 ~~licensed or certified~~ by any other human services agency of the  
22 State, to provide mental health service or developmental  
23 disabilities service, or (ii) a program licensed, funded, or  
24 certified by the Department or ~~, but not licensed or certified~~  
25 by any other human services agency of the State, to provide  
26 mental health service or developmental disabilities service.



1 "Aggravating circumstance" means a factor that is  
2 attendant to a finding and that tends to compound or increase  
3 the culpability of the accused.

4 "Allegation" means an assertion, complaint, suspicion, or  
5 incident involving any of the following conduct by an employee,  
6 facility, or agency against an individual or individuals:  
7 mental abuse, physical abuse, sexual abuse, neglect, or  
8 financial exploitation.

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

10 "Deflection" means a situation in which an individual is  
11 presented for admission to a facility or agency, and the  
12 facility staff or agency staff do not admit the individual.  
13 "Deflection" includes triage, redirection, and denial of  
14 admission.

15 "Department" means the Department of Human Services.

16 "Developmentally disabled" means having a developmental  
17 disability.

18 "Developmental disability" means "developmental  
19 disability" as defined in the Mental Health and Developmental  
20 Disabilities Code.

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

1 condition.

2 "Employee" means any person who provides services at the  
3 facility or agency on-site or off-site. The service  
4 relationship can be with the individual or with the facility or  
5 agency. Also, "employee" includes any employee or contractual  
6 agent of the Department of Human Services or the community  
7 agency involved in providing or monitoring or administering  
8 mental health or developmental disability services. This  
9 includes but is not limited to: owners, operators, payroll  
10 personnel, contractors, subcontractors, and volunteers.

11 "Facility" or "State-operated facility" means a mental  
12 health facility or developmental disabilities facility  
13 operated by the Department or certified or licensed by any  
14 other State agency.

15 "Financial exploitation" means taking unjust advantage of  
16 an individual's assets, property, or financial resources  
17 through deception, intimidation, or conversion for the  
18 employee's, facility's, or agency's own advantage or benefit.

19 "Finding" means the Office of Inspector General's  
20 determination regarding whether an allegation is  
21 substantiated, unsubstantiated, or unfounded.

22 "Health care worker registry" or "registry" means the  
23 health care worker registry created by the Nursing Home Care  
24 Act.

25 "Individual" means any person receiving mental health  
26 service, developmental disabilities service, or both from a

1 facility or agency, while either on-site or off-site.

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

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

10 "Mentally ill" means having a mental illness.

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

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

25 "Physical abuse" means an employee's non-accidental and  
26 inappropriate contact with an individual that causes bodily

1 harm. "Physical abuse" includes actions that cause bodily harm  
2 as a result of an employee directing an individual or person to  
3 physically abuse another individual.

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

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

12 "Secretary" means the Chief Administrative Officer of the  
13 Department.

14 "Sexual abuse" means any sexual contact or intimate  
15 physical contact between an employee and an individual,  
16 including an employee's coercion or encouragement of an  
17 individual to engage in sexual behavior that results in sexual  
18 contact, intimate physical contact, sexual behavior, or  
19 intimate physical behavior.

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

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

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

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

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

13 (e) Powers and duties. The Inspector General shall  
14 investigate reports of suspected mental abuse, physical abuse,  
15 sexual abuse, neglect, or financial exploitation of  
16 individuals in any mental health or developmental disabilities  
17 facility or agency and shall have authority to take immediate  
18 action to prevent any one or more of the following from  
19 happening to individuals under its jurisdiction: mental abuse,  
20 physical abuse, sexual abuse, neglect, or financial  
21 exploitation. Investigations shall be commenced no later than  
22 24 hours after the report is received by the Inspector General.  
23 Upon written request of an agency of this State, the Inspector  
24 General may assist another agency of the State in investigating  
25 reports of the abuse, neglect, or abuse and neglect of persons  
26 with mental illness, persons with developmental disabilities,

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

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

24 (g) Rulemaking authority. The Inspector General shall  
25 promulgate rules establishing minimum requirements for  
26 reporting allegations as well as for initiating, conducting,

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

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

1 necessary or helpful.

2 (i) Duty to cooperate.

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

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



1 obstructing an Office of the Inspector General  
2 investigation. Additionally, any employee who, during an  
3 unannounced site visit or written response compliance  
4 check, fails to cooperate with requests from the Office of  
5 the Inspector General is in violation of this Act.

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

19 (k) Reporting allegations and deaths.

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

1 hours after the initial discovery of the incident,  
2 allegation, or suspicion of any one or more of the  
3 following: mental abuse, physical abuse, sexual abuse,  
4 neglect, or financial exploitation. A required reporter as  
5 defined in subsection (b) of this Section who knowingly or  
6 intentionally fails to comply with these reporting  
7 requirements is guilty of a Class A misdemeanor.

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

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

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

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

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

25 (1) Reporting criminal acts. Within 24 hours after  
26 determining that there is credible evidence indicating that a

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

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

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

20 (n) Written responses and reconsideration requests.

21 (1) Written responses. Within 30 calendar days from  
22 receipt of a substantiated investigative report or an  
23 investigative report which contains recommendations,  
24 absent a reconsideration request, the facility or agency  
25 shall file a written response that addresses, in a concise  
26 and reasoned manner, the actions taken to: (i) protect the

1 individual; (ii) prevent recurrences; and (iii) eliminate  
2 the problems identified. The response shall include the  
3 implementation and completion dates of such actions. If the  
4 written response is not filed within the allotted 30  
5 calendar day period, the Secretary shall determine the  
6 appropriate corrective action to be taken.

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

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

21 (p) Secretary review. Upon review of the Inspector  
22 General's investigative report and any agency's or facility's  
23 written response, the Secretary shall accept or reject the  
24 written response and notify the Inspector General of that  
25 determination. The Secretary may further direct that other  
26 administrative action be taken, including, but not limited to,

1 any one or more of the following: (i) additional site visits,  
2 (ii) training, (iii) provision of technical assistance  
3 relative to administrative needs, licensure or certification,  
4 or (iv) the imposition of appropriate sanctions.

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

23 (r) Sanctions. Sanctions, if imposed by the Secretary under  
24 Subdivision (p)(iv) of this Section, shall be designed to  
25 prevent further acts of mental abuse, physical abuse, sexual  
26 abuse, neglect, egregious neglect, or financial exploitation

1 or some combination of one or more of those acts at a facility  
2 or agency, and may include any one or more of the following:

3 (1) Appointment of on-site monitors.

4 (2) Transfer or relocation of an individual or  
5 individuals.

6 (3) Closure of units.

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

8 (i) Department licensing, (ii) funding, ~~or~~ (iii)  
9 certification, or (iv) licensing enforcement by the  
10 licensing entity of the facility, if any, up to and  
11 including revocation of licensure or an administrative  
12 order of closure, or both.

13 The Inspector General may seek the assistance of the  
14 Illinois Attorney General or the office of any State's Attorney  
15 in implementing sanctions.

16 (s) Health care worker registry.

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

25 (2) Notice to employee. Prior to reporting the name of  
26 an employee, the employee shall be notified of the

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

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



1 to whether the substantiated finding warrants reporting  
2 the name of the employee to the registry. The Secretary  
3 shall render the final decision. The Department and the  
4 employee shall have the right to request that the  
5 administrative law judge consider a stipulated disposition  
6 of these proceedings.

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

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

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

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

23 (t) Review of Administrative Decisions. The Department  
24 shall preserve a record of all proceedings at any formal  
25 hearing conducted by the Department involving health care  
26 worker registry hearings. Final administrative decisions of

1 the Department are subject to judicial review pursuant to  
2 provisions of the Administrative Review Law.

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

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

23 The Board shall meet quarterly, and may hold other meetings  
24 on the call of the chairman. Four members shall constitute a  
25 quorum allowing the Board to conduct its business. The Board  
26 may adopt rules and regulations it deems necessary to govern

1 its own procedures.

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

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

11 (2) Review existing regulations relating to the  
12 operation of facilities.

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

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

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

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

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

21 (x) Nothing in this Section shall be construed to mean that  
22 a patient is a victim of abuse or neglect because of health  
23 care services appropriately provided or not provided by health  
24 care professionals.

25 (y) Nothing in this Section shall require a facility,  
26 including its employees, agents, medical staff members, and

1 health care professionals, to provide a service to a patient in  
2 contravention of that patient's stated or implied objection to  
3 the provision of that service on the ground that that service  
4 conflicts with the patient's religious beliefs or practices,  
5 nor shall the failure to provide a service to a patient be  
6 considered abuse under this Section if the patient has objected  
7 to the provision of that service based on his or her religious  
8 beliefs or practices.

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

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

13 (20 ILCS 2435/35) (from Ch. 23, par. 3395-35)

14 Sec. 35. Assessment of reports.

15 (a) The Adults with Disabilities Abuse Project shall, upon  
16 receiving a report of alleged or suspected abuse, neglect, or  
17 exploitation obtain the consent of the subject of the report to  
18 conduct an assessment with respect to the report. The  
19 assessment shall include, but not be limited to, a face-to-face  
20 interview with the adult with disabilities who is the subject  
21 of the report and may include a visit to the residence of the  
22 adult with disabilities, and interviews or consultations with  
23 service agencies or individuals who may have knowledge of the  
24 circumstances of the adult with disabilities. A determination

1 shall be made whether each report is substantiated. If the  
2 Office of Inspector General determines that there is clear and  
3 substantial risk of death or great bodily harm, it shall  
4 immediately secure or provide emergency protective services  
5 for purposes of preventing further abuse, neglect, or  
6 exploitation, and for safeguarding the welfare of the person.  
7 Such services must be provided in the least restrictive  
8 environment commensurate with the adult with disabilities'  
9 needs.

10 (a-1) The Adults with Disabilities Abuse Project shall,  
11 upon receiving a report of alleged or suspected abuse, neglect,  
12 or financial exploitation, initiate the investigation within  
13 24 hours of receiving the report.

14 (a-5) The Adults with Disabilities Abuse Project shall  
15 initiate an assessment of all reports of alleged or suspected  
16 abuse or neglect within 7 days after receipt of the report,  
17 except reports of abuse or neglect that indicate that the life  
18 or safety of an adult with disabilities is in imminent danger  
19 shall be assessed within 24 hours after receipt of the report.  
20 Reports of exploitation shall be assessed within 30 days after  
21 the receipt of the report.

22 (b) (Blank).

23 (c) The Department shall effect written interagency  
24 agreements with other State departments and any other public  
25 and private agencies to coordinate and cooperate in the  
26 handling of substantiated cases; to accept and manage

1 substantiated cases on a priority basis; and to waive  
2 eligibility requirements for the adult with disabilities in an  
3 emergency.

4 (d) Every effort shall be made by the Adults with  
5 Disabilities Abuse Project to coordinate and cooperate with  
6 public and private agencies to ensure the provision of services  
7 necessary to eliminate further abuse, neglect, and  
8 exploitation of the adult with disabilities who is the subject  
9 of the report.

10 The Office of Inspector General shall promulgate rules and  
11 regulations to ensure the effective implementation of the  
12 Adults with Disabilities Abuse Project statewide.

13 (e) When the Adults with Disabilities Abuse Project  
14 determines that a case is substantiated, it shall refer the  
15 case to the appropriate office within the Department of Human  
16 Services to develop, with the consent of and in consultation  
17 with the adult with disabilities, a service plan for the adult  
18 with disabilities.

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

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

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



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

3           (325 ILCS 5/4.4a new)

4           Sec. 4.4a. DCFS duty to report to DHS' Office of Inspector  
5 General. Whenever the Department receives, by means of its  
6 statewide toll-free telephone number established under Section  
7 7.6 for the purpose of reporting suspected child abuse or  
8 neglect or by any other means or from any mandated reporter  
9 under Section 4, a report of suspected abuse, neglect, or  
10 financial exploitation of a disabled adult person between the  
11 ages of 18 and 59, the Department shall instruct the reporter  
12 to contact the Department of Human Services' Office of the  
13 Inspector General and shall provide the reporter with the  
14 statewide, 24-hour toll-free telephone number established and  
15 maintained by the Department of Human Services' Office of the  
16 Inspector General.

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